

HOUSE JOURNAL

SEVENTY-SEVENTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

EIGHTY-SECOND DAY — FRIDAY, MAY 25, 2001

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 568).

Present — Mr. Speaker; Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Absent, Excused — Hilbert.

The invocation was offered by Pastor Terrance Hayes, St. Paul's United Methodist Church, San Antonio.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for today because of illness:

Hilbert on motion of Haggerty.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

CAPITOL PHYSICIAN

The speaker recognized Representative F. Brown who presented Dr. Nancy Dickey and medical student Jason Etheredge of College Station as the "Doctors for the Day."

The house welcomed Dr. Dickey and Mr. Etheredge and thanked them for their participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

HR 1058 - ADOPTED
(by Callegari)

Representative Callegari moved to suspend all necessary rules to take up and consider at this time **HR 1058**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1058, In memory of Jack David Rhoads of Katy.

HR 1058 was read and was unanimously adopted by a rising vote.

INTRODUCTION OF GUESTS

The speaker recognized Representative Callegari, who introduced the family of Jack David Rhoads.

HR 1276 - ADOPTED
(by Goolsby)

Representative Goolsby moved to suspend all necessary rules to take up and consider at this time **HR 1276**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1276, Honoring Ken Dittlinger on his 53rd Birthday.

HR 1276 was read and was adopted without objection.

On motion of Representative Uher, the names of all the members of the house were added to **HR 1276** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Goolsby, who introduced House Doorkeeper Ken Dittlinger and his family.

HR 882 - ADOPTED
(by Hilderbran)

Representative Hilderbran moved to suspend all necessary rules to take up and consider at this time **HR 882**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 882, In memory of Carl Donald Meek, Sr., of Kerrville.

HR 882 was read and was unanimously adopted by a rising vote.

INTRODUCTION OF GUESTS

The speaker recognized Representative Hilderbran, who introduced the family of Carl Donald Meek, Sr.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today because of important business:

Junell on motion of Counts.

HR 1065 - ADOPTED
(by Hilderbran)

Representative Hilderbran moved to suspend all necessary rules to take up and consider at this time **HR 1065**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1065, Honoring the Former Texas Rangers Association and encouraging them to build their new history and education center in Kerrville.

HR 1065 was read and was adopted without objection.

On motion of Representative Hardcastle, the names of all the members of the house were added to **HR 1065** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Hilderbran, who introduced members of the Former Texas Rangers Association.

HCR 313 - ADOPTED
(by Homer)

Representative Homer moved to suspend all necessary rules to take up and consider at this time **HCR 313**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 313, Honoring James Larry Tucker on his retirement as superintendent of the Leonard ISD.

HCR 313 was adopted without objection.

HR 1160 - ADOPTED
(by B. Turner)

Representative B. Turner moved to suspend all necessary rules to take up and consider at this time **HR 1160**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1160, Congratulating Kyle Mitchell of Bangs on becoming a finalist in the 2001 Craftsman/National Science Teachers Association Young Inventors contest.

HR 1160 was adopted without objection.

HR 1234 - ADOPTED
(by Glaze)

Representative Glaze moved to suspend all necessary rules to take up and consider at this time **HR 1234**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1234, Honoring the memory of William H. Humphries of Tyler.

HR 1234 was unanimously adopted by a rising vote.

HR 921 - ADOPTED

(by Hilderbran)

Representative Hilderbran moved to suspend all necessary rules to take up and consider at this time **HR 921**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 921, In memory of Charles Schreiner III of Mountain Home.

HR 921 was read and was unanimously adopted by a rising vote.

HR 881 - ADOPTED

(by Hilderbran)

Representative Hilderbran moved to suspend all necessary rules to take up and consider at this time **HR 881**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 881, In memory of Louis Albert Schreiner II of Mountain Home.

HR 881 was read and was unanimously adopted by a rising vote.

INTRODUCTION OF GUESTS

The speaker recognized Representative Hilderbran, who introduced the family of Louis Albert Schreiner II and Charles Schreiner III.

HR 1277 - ADOPTED

(by Glaze)

Representative Glaze moved to suspend all necessary rules to take up and consider at this time **HR 1277**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1277, Honoring the memory of L. W. "Bob" Conradt of Terrell.

HR 1277 was read and was unanimously adopted by a rising vote.

HR 1087 - ADOPTED

(by Krusee)

Representative Krusee moved to suspend all necessary rules to take up and consider at this time **HR 1087**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1087, Honoring the members of Cedar Park High School's Destination ImagiNation team for their achievements.

HR 1087 was read and was adopted without objection.

INTRODUCTION OF GUESTS

The speaker recognized Representative Krusee, who introduced members of Cedar Park High School's Destination ImagiNation team.

HR 1280 - ADOPTED (by Puente)

Representative Puente moved to suspend all necessary rules to take up and consider at this time **HR 1280**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1280, Congratulating Juan Ramon Garcia of San Antonio on earning a National Merit Scholarship.

HR 1280 was adopted without objection.

HR 1281 - ADOPTED (by Puente)

Representative Puente moved to suspend all necessary rules to take up and consider at this time **HR 1281**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1281, Honoring Ramon Quintero for his civic service.

HR 1281 was adopted without objection.

HR 1282 - ADOPTED (by Puente)

Representative Puente moved to suspend all necessary rules to take up and consider at this time **HR 1282**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1282, Honoring Hershel Adkisson of San Antonio for his notable achievements.

HR 1282 was adopted without objection.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of illness:

Capelo on motion of Uresti.

HR 1284 - ADOPTED
(by Dutton)

Representative Dutton moved to suspend all necessary rules to take up and consider at this time **HR 1284**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1284, Honoring Laura Daniels Medlock of Austin for her outstanding service to the office of the speaker of the house.

HR 1284 was read and was adopted without objection.

On motion of Representative Goolsby, the names of all the members of the house were added to **HR 1284** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Dutton, who introduced Laura Daniels Medlock, cook for the speakers of the house for 24 years, and her family.

HR 1207 - ADOPTED
(by Hamric)

Representative Hamric moved to suspend all necessary rules to take up and consider at this time **HR 1207**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1207, Honoring the House Research Organization for its service during the 77th Regular Session.

(Edwards in the chair)

HR 1207 was read and was adopted without objection.

(Speaker in the chair)

HR 1236 - ADOPTED
(by Uher, et al.)

Representative Uher moved to suspend all necessary rules to take up and consider at this time **HR 1236**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1236, In memory of the Honorable Raul L. Longoria.

HR 1236 was read and was unanimously adopted by a rising vote.

INTRODUCTION OF GUESTS

The speaker recognized Representative Uher, who introduced the family of the Honorable Raul L. Longoria.

HR 1231 - ADOPTED
(by Merritt)

Representative Merritt moved to suspend all necessary rules to take up and consider at this time **HR 1231**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1231, Honoring Howard Rosser of Longview.

HR 1231 was adopted without objection.

HR 1045 - ADOPTED
(by Hunter)

Representative Hunter moved to suspend all necessary rules to take up and consider at this time **HR 1045**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1045, Honoring George Fletcher Cauthen of Houston for his myriad accomplishments.

HR 1045 was read and was adopted without objection.

INTRODUCTION OF GUESTS

The speaker recognized Representative Hunter, who introduced George Fletcher Cauthen and his sons, Michael and Andy.

COMMITTEE GRANTED PERMISSION TO MEET

Representative R. Lewis requested permission for the conference committee on **SB 2** to meet while the house is in session for the remainder of the session.

Permission to meet was granted without objection.

HR 1217 - ADOPTED
(by Green)

Representative Green moved to suspend all necessary rules to take up and consider at this time **HR 1217**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1217, Supporting the selection of Southwest Texas State University as the Southwest Regional Humanities Center by the National Endowment for the Humanities.

HR 1217 was adopted without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Conference committee on **SB 2**, 1:00 p.m. today, E1.028, for a formal meeting, to consider **SB 2**.

HR 1270 - ADOPTED
(by Hill)

Representative Hill moved to suspend all necessary rules to take up and consider at this time **HR 1270**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1270, Recognizing Sidney Naishtat of New York City as an Honorary Texas Lawyer.

HR 1270 was read and was adopted without objection.

On motion of Representative Merritt, the names of all the members of the house were added to **HR 1270** as signers thereof.

(Speaker pro tempore in the chair)

HR 1283 - ADOPTED
(by Tillery)

Representative Tillery moved to suspend all necessary rules to take up and consider at this time **HR 1283**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1283, Honoring Rhonda High Pecora of Austin for her exceptional culinary skills and hostess abilities.

HR 1283 was read and was adopted without objection.

On motion of Representative Dunnam, the names of all the members of the house were added to **HR 1283** as signers thereof.

HR 1289 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the chair announced the introduction of **HR 1289**, suspending the limitations on the conferees for **SB 1057**.

HR 1285 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the chair announced the introduction of **HR 1285**, suspending the limitations on the conferees for **SB 1119**.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today because of important business in the district:

Smithee on motion of Keel.

CONGRATULATORY AND MEMORIAL CALENDAR

The following congratulatory resolutions were laid before the house:

HR 333 (by Burnam and Maxey), Declaring February 28, 2001, as Dorothy Isgur Day at the Texas Capitol.

HR 1014 (by Smith), Honoring Jeff Corbet for his service on the Bedford City Council.

HR 1016 (by Gutierrez), Congratulating Ruben and Camille Longoria of Cedar Park on the birth of their son.

HR 1022 (by Noriega and J. Moreno), Congratulating Milby High School of Houston on its 75th anniversary.

HR 1028 (by Counts), Honoring the 50th wedding anniversary of Mr. and Mrs. W. T. Grussendorf of Anson.

HR 1029 (by Dunnam), Honoring the Central Texas Chapters of Zeta Phi Beta Sorority on its 72nd Southern Regional Conference.

HR 1034 (by Krusee), Congratulating Dr. Glenn Arthur Lee of Taylor on his 80th birthday.

HR 1035 (by Krusee), Honoring Native Texan Mildred Barnes Jernigan on the occasion of her 90th birthday.

HR 1036 (by Krusee), Congratulating Kurt and Victoria Frieling of Plano on the birth of their son.

HR 1043 (by Chavez), Honoring the 2001 Junior ROTC battalion at Parkland High School for earning the Superintendent's Trophy.

HR 1045 was previously adopted.

HR 1050 (by Hardcastle), Honoring Cundiff Cemetery on its receipt of a historical marker.

HR 1052 (by McCall and Madden), Honoring Police Chief Bruce D. Glasscock of Plano for his service as President of the International Association of Chiefs of Police.

HR 1053 (by McCall), Honoring Shiloh Missionary Baptist Church of Plano on the dedication of their new sanctuary.

HR 1054 (by McCall), Honoring Allison Smith of Plano for being named a distinguished finalist in the 2001 Prudential Spirit of Community Awards program.

HR 1059 (by Dutton), Commending Wilberforce University on the occasion of its 2001 National Alumni Conference in Houston.

HR 1060 (by Dutton), Honoring Allee Winifred James Mitchell of Houston on the occasion of her 90th birthday.

HR 1061 (by Chavez and Najera), Honoring El Paso's Eastwood High School Student Council for being chosen the secretary school for the Texas Association of Student Councils.

HR 1064 (by Noriega, Talton, J. Davis, and J. Moreno), Honoring Gene Garison for his service as a Pasadena city councilman.

HR 1065 was previously adopted.

HR 1066 (by Callegari), Congratulating the Katy Taylor High School academic decathlon team on its achievements.

HR 1070 (by Farabee), Honoring the Wichita Falls Police Department on receiving accreditation from the Commission on Accreditation for Law Enforcement Agencies, Inc.

HR 1071 (by J. Jones), Honoring Duncanville High School for receiving a fifth place national award in the 18th annual Children's Set a Good Example Competition.

HR 1076 (by Smith), Honoring Karin Newell on her retirement from the Bedford City Council.

HR 1082 (by R. Lewis), Honoring Maxine Odom Smith of Orange on her retirement from the Orange Community Action Association.

HR 1085 (by Ellis), Honoring Laura Thresher Johnston on her graduation from Sam Houston State University.

HR 1087 was previously adopted.

HR 1089 (by Wise) Honoring Walter Anthony Lukaszek of Donna on his retirement from the Texas Department of Protective and Regulatory Services.

HR 1090 (by Christian), Recognizing 2001 as the International Year of Volunteers.

HR 1094 (by Chavez), Congratulating Salvador H. Sanchez Middle School for being honored for innovations in science education by the El Paso Collaborative for Academic Excellence and the National Science Foundation.

HR 1095 (by Chavez), Congratulating Del Valle High School for being honored for innovations in science education by the El Paso Collaborative for Academic Excellence and the National Science Foundation.

HR 1096 (by Chavez), Congratulating Hacienda Heights Elementary School for being honored for innovations in science education by the El Paso Collaborative for Academic Excellence and the National Science Foundation.

HR 1097 (by Chavez), Congratulating Bassett Middle School for being honored for innovations in science education by the El Paso Collaborative for Academic Excellence and the National Science Foundation.

HR 1098 (by Chavez), Congratulating Lamar Elementary School for being honored for innovations in science education by the El Paso Collaborative for Academic Excellence and the National Science Foundation.

HR 1099 (by Chavez), Congratulating Robert R. Rojas Elementary School for its innovations in science education.

HR 1100 (by Chavez), Congratulating Jan "Juanita" Engles on the occasion of her induction into the 2001 El Paso County Democratic Hall of Fame.

HR 1101 (by Chavez), Congratulating Marie "Pee Wee" Mier on the occasion of her induction into the 2001 El Paso County Democratic Hall of Fame.

HR 1102 (by Chavez), Congratulating Soledad "Chole" Galvan on the occasion of her induction into the 2001 El Paso County Democratic Hall of Fame.

HR 1103 (by Chavez), Congratulating Delia Briones on the occasion of her induction into the 2001 El Paso County Democratic Hall of Fame.

HR 1104 (by Chavez), Congratulating Ceci Carpio on the occasion of her induction into the 2001 El Paso County Democratic Hall of Fame.

HR 1105 (by Chavez), Congratulating Mary Bowles-Grijalva on the occasion of her induction into the 2001 El Paso County Democratic Hall of Fame.

HR 1106 (by Chavez), Congratulating Luis Mata on the occasion of his induction into the 2001 El Paso County Democratic Hall of Fame.

HR 1107 (by Chavez), Congratulating Jose "Joe" R. Parra on the occasion of his induction into the 2001 El Paso County Democratic Hall of Fame.

HR 1108 (by Chavez), Congratulating Esther V. Perez on the occasion of her induction into the 2001 El Paso County Democratic Hall of Fame.

HR 1109 (by Chavez), Congratulating the Honorable Charles R. Schulte on the occasion of his induction into the 2001 El Paso County Democratic Hall of Fame.

HR 1110 (by Chavez), Congratulating Susan Kathryn Sheldon on the occasion of her induction into the 2001 El Paso County Democratic Hall of Fame.

HR 1111 (by Chavez), Congratulating Lupe Weaver on the occasion of her induction into the 2001 El Paso County Democratic Hall of Fame.

HR 1112 (by Chavez), Congratulating George Ybarra on the occasion of his induction into the 2001 El Paso County Democratic Hall of Fame.

HR 1113 (by Chavez), Congratulating Dorline Wonciar on the occasion of her induction into the 2001 El Paso County Democratic Hall of Fame.

HR 1114 (by Chavez), Congratulating Irma S. Sanchez on the occasion of her induction into the 2001 El Paso County Democratic Hall of Fame.

HR 1115 (by Chavez), Congratulating Ramy Martinez on the occasion of his induction into the 2001 El Paso County Democratic Hall of Fame.

HR 1116 (by Chavez), Congratulating Delia Camacho on the occasion of her induction into the 2001 El Paso County Democratic Hall of Fame.

HR 1117 (by Chavez), Congratulating Daniel Anchondo on the occasion of his induction into the 2001 El Paso County Democratic Hall of Fame.

HR 1118 (by Chavez), Commending the El Paso Fire Department on its actions on May 9, 2001.

HR 1122 (by Sadler), Honoring the 2000 Henderson Baseball All-Stars for winning the Dixie Boys World Series in Cleveland, Mississippi.

HR 1123 (by J. Jones), Honoring Vernor Kennedy of Dallas on his retirement.

HR 1126 (by Denny), Congratulating the Ponder High School boys basketball team on winning the 2001 UIL Class 2A state championship.

HR 1127 (by Alexander), Congratulating the Texas Department of Transportation and the Texas Transportation Institute on the occasion of the 75th annual Transportation Short Course.

HR 1132 (by Hilderbran), Honoring the 30th anniversary of the Kerrville Folk Festival.

HR 1133 (by Danburg), Recognizing May 13, 2001, as World Falun Dafa Day and commending the significant efforts of Li Hongzhi and all the followers of this ancient practice.

HR 1140 was withdrawn.

HR 1143 (by West), Congratulating Ollie Jo Wester of Odessa on the occasion of her 70th birthday.

HR 1146 (by Miller), Commemorating the 120th anniversary of Selden Baptist Church in Erath County.

HR 1147 (by B. Turner), Honoring the Lohn School on its receipt of a 2000-2001 National Title 1 Distinguished School Award from the U.S. Department of Education.

HR 1148 was previously adopted.

HR 1177 (by Kolkhorst), Honoring Representative Fred Brown for his work with the Brazos Valley United Way.

HR 1190 (by J. Davis), Congratulating Bertie Lynch and Arthur E. Lynch, Sr., of Seabrook on their 50th wedding anniversary.

HR 1218 (by Pitts), Honoring Lois Ewald of Austin on her retirement as executive director of the Texas Optometry Board.

SCR 59, Commending Betty Reese and congratulating her on her selection as Governor of the Texas District of Pilot International.

SCR 66, Honoring the memory of fallen peace officers in Nacogdoches County.

The resolutions were adopted without objection

The following memorial resolutions were laid before the house:

HR 79 (by Gallego), In memory of Dr. Arvel R. Ponton, Jr.

HR 846 (by Hilderbran), In memory of Carl Donald Meek, Sr., of Kerrville.

HR 881 was previously adopted.

HR 882 was previously adopted.

HR 921 was previously adopted.

HR 958 (by J. Jones), In memory of Mildred Garland of Dallas.

HR 1009 (by E. Jones), In memory of Marshall Terrell Steves, Sr., of San Antonio.

HR 1038 (by Uher), In memory of Lois Martin Hansen Hayes of Bay City.

HR 1039 (by Chisum and Uher), In memory of the Honorable Grainger Walter McIlhany.

HR 1042 (by Chavez), In memory of Lilia Natalia De-Cory Arrambide of El Paso.

HR 1055 (by J. Jones), In memory of Emma B. Hughes of Dallas.

HR 1058 was previously adopted.

HR 1072 was previously adopted.

HR 1080 (by Allen), In memory of Judge Ann King of Grand Prairie.

HR 1086 (by Ellis), In memory of Stan Saucier of Huntsville.

HR 1121 (by Junell), In memory of Dr. R. Othal Feather.

HR 1137 (by Pitts), In memory of David Low of Ennis.

HR 1138 (by Pitts), Honoring the memory of Richard G. Schmidt of Palmer.

HR 1145 (by Farabee and Hardcastle), In memory of Dorothy Griffin, Patricia Oliver, Asline Hinostrosa, and Virginia Bean of Burkburnett.

HCR 232 (by Homer), Paying tribute to the late Thomas D. "Tom" Wells of Paris for his public service.

SCR 62, In memory of William "Bill" Kloster of Dublin.

The resolutions were unanimously adopted by a rising vote.

INTRODUCTION OF GUESTS

The chair recognized Representative Hope, who introduced members of the Cut-N-Shoot Harley Owner's Group.

HR 654, honoring the Cut-N-Shoot Harley Owner's Group for their many civic contributions, having been previously adopted, was read.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 68 and Senate List No. 36).

**SB 45 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Naishtat, the house granted the request of the senate for the appointment of a conference committee on **SB 45**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 45**: Naishtat, chair, Coleman, Gray, Keffer, and Noriega.

**SB 273 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Tillery, the house granted the request of the senate for the appointment of a conference committee on **SB 273**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 273**: Tillery, chair, Telford, Goodman, Rangel, and Marchant.

**SB 292 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Telford, the house granted the request of the senate for the appointment of a conference committee on **SB 292**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 292**: Telford, chair, Tillery, Marchant, Kuempel, and Rangel.

**SB 1573 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative B. Turner, the house granted the request of the senate for the appointment of a conference committee on **SB 1573**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1573**: Hawley, chair, Luna, Kuempel, Capelo, and Seaman.

**SB 1839 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Naishtat, the house granted the request of the senate for the appointment of a conference committee on **SB 1839**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1839**: Eiland, chair, Naishtat, Smithee, B. Turner, and Wohlgemuth.

HB 695 - RECOMMITTED

Representative A. Reyna moved to recommit **HB 695** to the conference committee on **HB 695**.

The motion prevailed without objection.

HB 1641 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Rangel submitted the following conference committee report on **HB 1641**:

Austin, Texas, May 22, 2001

Honorable Bill Ratliff
President of the Senate

Honorable James E. "Pete" Laney
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1641** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Barrientos	Rangel
Bivins	F. Brown
Brown	Farabee
Truan	J. Jones
Zaffirini	Morrison
On the part of the Senate	On the part of the House

HB 1641, A bill to be entitled An Act relating to providing certain students with an equal opportunity to enroll in or receive a competitive scholarship for a graduate or professional degree program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 51, Education Code, is amended by adding Subchapter V to read as follows:

SUBCHAPTER V. ADMISSION AND SCHOLARSHIP
POLICIES FOR GRADUATE AND PROFESSIONAL PROGRAMS

Sec. 51.821. DEFINITIONS. In this subchapter:

(1) "General academic teaching institution" and "medical and dental unit" have the meanings assigned by Section 61.003.

(2) "Graduate program" means a degree program, as defined by Section 61.003, to which a student may be admitted that leads to a master's or doctoral degree.

(3) "Professional program" means a degree program, as defined by Section 61.003, to which a student may be admitted that leads to a degree required for licensure as an attorney, doctor of medicine or osteopathy, dentist, architect, or pharmacist.

Sec. 51.822. ADMISSION AND SCHOLARSHIP FACTORS FOR GRADUATE AND PROFESSIONAL PROGRAMS. (a) A graduate or professional program of a general academic teaching institution or medical or dental unit may consider the following factors in making an admissions or scholarship decision for admissions into or competitive scholarships for the graduate or professional program:

(1) an applicant's academic record as a high school student and undergraduate student;

(2) the socioeconomic background of the applicant while the applicant attended elementary and secondary school and was an undergraduate student, including any change in that background;

(3) whether the applicant would be the first generation of the applicant's family to attend or graduate from an undergraduate program or from a graduate or professional program;

(4) whether the applicant has multilingual proficiency;

(5) the applicant's responsibilities while attending elementary and secondary school and as an undergraduate student, including whether the applicant was employed, whether the applicant helped to raise children, and other similar factors;

(6) to achieve geographic diversity, the applicant's region of residence at the time of application and, if the applicant graduated from a public high school in this state within the preceding 20 years, the region in which the applicant's school district is located;

(7) the applicant's involvement in community activities;

(8) the applicant's demonstrated commitment to a particular field of study;

(9) for admission into a professional program, the current comparative availability of members of that profession in the applicant's region of residence while the applicant attended elementary and secondary school;

(10) whether the applicant was automatically admitted to a general academic teaching institution as an undergraduate student under Section 51.803; and

(11) the applicant's personal interview.

(b) An applicant's performance on a standardized test may not be used in the admissions or competitive scholarship process for a graduate or professional program as the sole criterion for consideration of the applicant or as the primary criterion to end consideration of the applicant. If an applicant's performance on a standardized test is used in the admissions or competitive scholarship process, the applicant's performance must also be used to compare the applicant's test score with those of other applicants from similar socioeconomic backgrounds to the extent that those backgrounds can be properly determined and identified by the general academic teaching institution or medical and dental unit based on information provided in the institution's or unit's admissions or competitive scholarship process. This subsection does not apply to a standardized test used to measure the English language proficiency of a student who is a graduate of a foreign institution of higher education.

(c) A general academic teaching institution or medical and dental unit may not assign a specific weight to any one factor being considered in the admissions or competitive scholarship process for a graduate or professional program.

(d) Not later than one year before the date that applications for admissions and competitive scholarships are first considered for a graduate or professional program under this subchapter, each general academic teaching institution or medical and dental unit shall publish in the catalog of the institution or unit a description of the factors to be considered by the institution or unit in making those admissions and competitive scholarship decisions and shall make the information available to the public.

(e) The requirements of Subsection (d) do not apply to admissions and competitive scholarships for the 2002 fall semester. Each institution or unit covered by Subsection (d) shall make the required information available to the public and to applicants to its graduate and professional programs not later than December 1, 2001, for the 2002 fall semester. This subsection expires September 1, 2002.

Sec. 51.823. RULEMAKING. The Texas Higher Education Coordinating Board may adopt rules relating to the operation of admissions and competitive scholarship processes under this subchapter.

SECTION 2. (a) The change in law made by this Act applies beginning with admissions and competitive scholarships for the 2002-2003 academic year.

(b) The Texas Higher Education Coordinating Board, each general academic teaching institution, and each medical and dental unit shall adopt rules or policies relating to the admission of students and awarding of scholarships under Subchapter V, Chapter 51, Education Code, as added by this Act, not later than December 1, 2001.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

Representative Rangel moved to adopt the conference committee report on **HB 1641**.

A record vote was requested.

The motion prevailed by (Record 569): 138 Yeas, 3 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Christian; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hawley; Heflin; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Marchant; Martinez Fischer; Maxey; McCall; McClendon; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Smith; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Nays — Clark; Madden; Shields.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Capelo; Hilbert; Junell; Smithee.

Absent — Hartnett; Hilderbran; McReynolds.

STATEMENT OF VOTE

When Record No. 569 was taken, I was temporarily out of the house chamber. I would have voted yes.

Hilderbran

SB 113 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Goolsby submitted the conference committee report on **SB 113**.

Representative Goolsby moved to adopt the conference committee report on **SB 113**.

The motion prevailed.

**HB 704 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Delisi called up with senate amendments for consideration at this time,

HB 704, A bill to be entitled An Act relating to the Careers to Classrooms Program.

On motion of Representative Delisi, the house concurred in the senate amendments to **HB 704**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1 - 2nd Reading)

Amend **HB 704** (Senate Committee Printing) as follows:

(1) on page 3, line 28, add a new Section 3 and insert the following:

"Sec. 21.612. TEACHER REWARD (a) The agency may establish statewide initiatives for teacher reward activities, including activities designed to improve teacher recruitment, retention, and recognition. The agency may coordinate with other agencies to recognize and promote the teaching profession.

(b) The agency may use any available revenue, including legislative appropriation, and may solicit and accept gifts, grants, and donations to support initiatives under this section."

Senate Amendment No. 2 (Senate Floor Amendment No. 1 - 3rd Reading)

Amend **HB 704** by striking the second reading floor amendment.

**HB 792 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Wolens called up with senate amendments for consideration at this time,

HB 792, A bill to be entitled An Act relating to certain procedures regarding state bar disciplinary proceedings.

On motion of Representative Wolens, the house concurred in the senate amendments to **HB 792**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1 - 2nd Reading)

Amend **HB 792**, (Senate committee printing), as follows:

(1) In SECTION 1 of the bill (page 1, line 25), between "member" and the period, insert "for each two attorney members".

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 792**, in SECTION 1 of the bill, as follows:

(1) In added Section 81.072(i), Government Code (senate committee printing, page 1 lines 19-20), strike "each party to" and substitute "the complainant and the respondent in".

(2) In added Section 81.072(m), Government Code (senate committee printing, page 1, line 38), strike "each party to" and substitute "the complainant and the respondent in".

Senate Amendment No. 3 (Senate Floor Amendment No. 3)

Amend **HB 792**, in SECTION 1 of the bill, in added Section 81.072(n), Government Code (senate committee printing, page 1, line 43), by striking "assigned" and substituting "assigned without the approval of the complainant and the respondent in the grievance matter".

Senate Amendment No. 4 (Senate Floor Amendment No. 4)

Amend **HB 792**, in SECTION 1 of the bill, as follows:

(1) In the introductory language of the bill (senate committee printing, page 1, line 12), strike "Subsections (h)-(n)" and substitute "Subsections (h)-(o)".

(2) In amended Section 81.072, Government Code (senate committee printing, page 1, between lines 43 and 44), insert the following:

(o) On the filing of a motion by an attorney against whom a disciplinary action has been brought in which a district grievance committee of the state bar or a district court has determined that the allegation on which the action is based is unfounded, the district grievance committee or the district court, as appropriate, shall destroy all records relating to the action or, if destruction is impracticable, obliterate the portions of all records relating to the action that identify the attorney. An attorney for whom records relating to a disciplinary action are destroyed as provided by this subsection may deny the occurrence of the disciplinary action and the allegation on which the action was based.

Senate Amendment No. 5 (Senate Floor Amendment No. 1 - 3rd Reading)

Delete second reading Floor amendment no. 4 in its entirety and replace with the following:

(o) Whenever a grievance is either dismissed as an Inquiry or dismissed as a Complaint after an investigatory hearing in accordance with the Texas Rules of Disciplinary Procedure and that dismissal has become final, the respondent attorney may thereafter deny that a grievance was pursued. In any disciplinary action which is tried to verdict before an evidentiary panel or a district court and there is a take-nothing judgment entered which becomes final, the respondent attorney may file a motion with the tribunal seeking expunction of the tribunal's file on the matter. In the event an expunction is granted, the

evidentiary panel or district court shall order that all records be destroyed other than statistical or identifying information maintained by the chief disciplinary counsel pertaining to any grievance which formed the basis of the disciplinary action and the respondent attorney may thereafter deny any grievance which formed the basis of the disciplinary action was filed.

HB 920 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Goodman called up with senate amendments for consideration at this time,

HB 920, A bill to be entitled An Act relating to the adoption of the Uniform Parentage Act; providing penalties.

On motion of Representative Goodman, the house concurred in the senate amendments to **HB 920** by (Record 570): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Gallego; Garcia; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Capelo; Hilbert; Junell; Smithee.

Absent — Flores; George; Hartnett; Keel; Wilson.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 920**, in SECTION 1 of the bill, between proposed Sections 160.422 and 160.423, Family Code (senate committee printing page 8, between lines 4 and 5), by inserting the following:

(d) A search of the registry is not required if the only man alleged to be the father of the child has signed a waiver of interest in, or relinquishment of parental rights with regard to, the child.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 920** as follows:

(1) In SECTION 1 of the bill, following proposed Section 160.308, Family Code (Senate committee printing, page 5, between lines 31 and 32), insert "

(d) For purposes of Subsection (a), evidence that, based on genetic testing, the man who is the signatory of an acknowledgement of paternity is not rebuttably identified as the father of a child in accordance with Section 160.505 constitutes a material mistake of fact."

(2) In SECTION 1 of the bill, following proposed Section 160.315, Family Code (Senate committee printing, page 6, between lines 14 and 15), insert the following:

Sec. 160.316. SUIT TO CONTEST VOLUNTARY STATEMENT OF PATERNITY. (a) A man who executed a voluntary statement of paternity before September 1, 1999, and who, on the basis of that statement, is the subject of a final order declaring him to be a parent of the child who is the subject of the statement may file a suit affecting the parent-child relationship to contest the statement on the basis of fraud, duress, or material mistake of fact in the same manner that a person may contest an acknowledgment of paternity under Sections 160.308 and 160.309. For purposes of this subsection, evidence that, based on genetic testing, the man is not rebuttably identified as the father of a child in accordance with Section 160.505 constitutes a material mistake of fact.

(b) A suit filed under this section to contest a voluntary statement of paternity is not affected by an order with respect to the child that was rendered on the basis of that statement.

(c) The court, on a preliminary finding in a suit under this section that there is credible evidence of fraud, duress, or material mistake of fact regarding the execution of the voluntary statement of paternity, shall order genetic testing as provided by Subchapter F. The person contesting the voluntary statement of paternity shall pay the cost of the testing.

(d) Except as provided by Subsection (e), if the results of the genetic testing do not rebuttably identify the man as the father of the child in accordance with Section 160.505, the court shall set aside:

(1) the final order declaring the man to be a parent of the child; and

(2) any other order with respect to the child that was rendered on the basis of the voluntary statement of paternity.

(e) The court may not set aside under Subsection (d) a final order declaring a man to be a parent of a child if the man who executed the voluntary statement of paternity:

(1) executed the statement knowing that he was not the father of the child; or

(2) subsequently adopted the child.

(f) If the court sets aside a final order as provided by Subsection (d), the court shall order the bureau of vital statistics to amend the birth record of the child. The court may not as a result of the order being set aside:

(1) require an obligee to repay child support paid by the man who executed the voluntary statement of paternity; or

(2) award damages to the man who executed the voluntary statement of paternity.

(g) A suit under this section must be filed before September 1, 2003.

(h) This section expires September 1, 2004.

(3) In SECTION 1 of the bill, at the end of proposed Subchapter D, Chapter 160, Family Code (Senate committee printing, page 6, line 15), strike

"[Sections 160.316-160.400 reserved for expansion]" and substitute "[Sections 160.317-160.400 reserved for expansion]".

(4) In SECTION 1 of the bill, in proposed Section 160.637(a), Family Code (Senate committee printing, page 14, line 32), between "Subsection (b)" and the comma, insert "or Section 160.316".

(5) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. The change in law made by Section 160.316, Family Code, as added by this Act, applies to a suit affecting the parent-child relationship commenced on or after the effective date of this Act and before September 1, 2003. A suit commenced before September 1, 2003, that is pending on or after September 1, 2004, is governed by Section 160.316, Family Code, as that section existed on the date the suit was filed, and that law is continued in effect for that purpose.

(Haggerty in the chair)

**HB 981 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative T. King called up with senate amendments for consideration at this time,

HB 981, A bill to be entitled An Act relating to oil and gas royalty reporting standards.

Representative T. King moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 981**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 981**: T. King, chair, Hawley, R. Lewis, Kitchen, and Crabb.

**HB 1005 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Naishtat called up with senate amendments for consideration at this time,

HB 1005, A bill to be entitled An Act relating to the creation of a state program of temporary assistance and related support services for needy persons.

On motion of Representative Naishtat, the house concurred in the senate amendments to **HB 1005**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1005** as follows:

(1) In SECTION 1 of the bill, in added Section 34.006, Human Resources Code (Committee printing, page 2, line 10), strike "December" and substitute "September".

(2) In SECTION 1 of the bill, in added Section 34.006, Human Resources Code (Committee printing, page 2, line 13), strike "December 1, 2004" and substitute "September 1, 2002".

(3) In SECTION 2 of the bill (Committee printing, page 2 line 23, strike "December 1" and substitute "September 1".

(4) On page 2, line 32, insert the following new Section:

SECTION 5. This Act expires September 2, 2003 unless continued in existence by the legislature by that date.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 1005** as follows:

(1) In SECTION 1 of the bill, in proposed Section 34.002(c), Human Resources Code (Committee printing, page 1, lines 35 and 36), strike "may be funded only with state money" and substitute "may not be funded with federal money provided to the state for the financial assistance program authorized by Chapter 31"

(2) In SECTION 1 of the bill, between proposed Sections 34.005 and 34.006, Human Resources Code (Committee printing, page 2, between lines 6 and 7), insert the following:

Sec. 34.006. STUDY. The Texas Workforce Commission, in collaboration with local workforce development boards and the appropriate standing committees of the senate and house of representatives, shall:

(1) study methods to improve the delivery of workforce services to persons residing in minimum service counties, as defined by the commission; and

(2) develop recommendations to improve the delivery of services described by Subdivision (1) for inclusion in the report required by Section 34.007.

(3) In SECTION 1 of the bill, in proposed Section 34.006, Human Resources Code (Committee printing, page 2, line 7), strike "34.006" and substitute "34.007".

(4) In SECTION 2 of the bill (Committee printing, page 2, line 19) strike "34.006" and substitute "34.007".

HB 1392 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Keffer called up with senate amendments for consideration at this time,

HB 1392, A bill to be entitled An Act relating to certain ad valorem tax exemptions.

On motion of Representative Keffer, the house concurred in the senate amendments to **HB 1392** by (Record 571): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Hamric; Hardcastle; Hartnett; Hawley;

Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbraneck.

Present, not voting — Mr. Speaker; Haggerty(C).

Absent, Excused — Capelo; Hilbert; Junell; Smithee.

Absent — Averitt.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1392** by inserting the following appropriately numbered section and renumbering subsequent sections of the bill accordingly:

SECTION _____. Section 11.436, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) To facilitate the financing associated with the acquisition of a property, an organization, before acquiring the property, may request from the chief appraiser of the appraisal district established for the county in which the property is located a preliminary determination of whether the property would qualify for an exemption under Section 11.182 if acquired by the organization. The request must include the information that would be included in an application for an exemption for the property under Section 11.182. Not later than the 21st day after the date a request is submitted under this subsection, the chief appraiser shall issue a written preliminary determination for the property included in the request. A preliminary determination does not affect the granting of an exemption under Section 11.182.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 1392** by striking SECTION 4 and replacing in lieu thereof the following:

"SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001."

HB 1449 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Solis called up with senate amendments for consideration at this time,

HB 1449, A bill to be entitled An Act relating to the expiration of the Property Redevelopment and Tax Abatement Act.

On motion of Representative Solis, the house concurred in the senate amendments to **HB 1449** by (Record 572): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Denny; Deshotel; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Green; Grusendorf; Gutierrez; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Haggerty(C).

Absent, Excused — Capelo; Hilbert; Junell; Smithee.

Absent — Delisi; Driver; Flores; Gray; Homer.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1449** as follows:

(1) Delete SECTION 1 of the bill and substitute:

SECTION 1. Amend Tax Code, sec. 312.006 to read as follows:

Sec. 312.006. Expiration Date. If not continued in effect, this chapter expires September 1, ~~2001~~ 2009.

(2) Insert a new section to the bill and renumber succeeding sections appropriately:

SECTION 2. Amend the Tax Code, sec. 312.005, by adding a new subsection and re-entering succeeding subsections appropriately:

(c). Not later than December 31 of each even-numbered year, the comptroller shall submit a report to the legislature and to the governor on reinvestment zones designated under this chapter and on tax abatement agreements adopted under this chapter, including a summary of the information reported under this section.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 1449** as follows:

(1) Add the following new SECTION to read as follows:

"SECTION _____. Section 312.002, Tax Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) "Taxing unit" has the meaning assigned by Section 1.04, except that for a tax abatement agreement executed on or after September 1, 2001, the term

does not include a school district that is subject to Chapter 42, Education Code, and that is organized primarily to provide general elementary and secondary public education.

(f) On or after September 1, 2001, a school district may not enter into a tax abatement agreement under this chapter."

(2) Delete SECTION 2 and substitute the following:

"SECTION 2. (a) The changes in law made by this Act apply to a tax abatement agreement executed or modified under Chapter 312, Tax Code, as amended by this Act, on or after September 1, 2001. The execution or modification of a tax abatement agreement under Chapter 312, Tax Code, as amended by this Act, before September 1, 2001, is covered by the law in effect immediately before September 1, 2001, and the former law is continued in effect for that purpose.

(b) This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001."

HB 1544 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Uher called up with senate amendments for consideration at this time,

HB 1544, A bill to be entitled An Act relating to the release of certain personal information from motor vehicle records and information relating to motor vehicle accident reports; providing penalties.

On motion of Representative Uher, the house concurred in the senate amendments to **HB 1544**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1544** by adding an appropriately numbered SECTION to read as follows:

SECTION _____. Section 521.055 is amended by adding Subsection (g) to read as follows:

(g) For purposes of this section, a release of information to persons eligible to receive the information under Chapter 730 occurs each time a query is made of the system.

Senate Amendment No. 2 (Senate Floor Amendment No 2.)

Amend **HB 1544** as follows:

(1) In SECTION 1 of the bill, added Section 521.050(c)(1), Transportation Code (Committee Printing, page 1, line 21), strike "\$10,000" and substitute "\$2,000".

(2) In SECTION 1 of the bill, added Section 521.050(c)(2), Transportation Code (Committee Printing, page 1, line 24), strike "\$200" and substitute "\$75".

(3) In SECTION 3 of the bill, amended Section 550.065(d), Transportation Code (Committee Printing, page 2), strike lines 31 and 32 and substitute "accident information is \$6 or the actual cost of the preparation of the copy, whichever is less [\$4]. The copy may be certified".

(4) In SECTION 3 of the bill, amended Section 550.065(d), Transportation Code (Committee Printing, page 2, line 34), strike "\$5 [\$2]" and substitute "\$2".

(5) In SECTION 3 of the bill, amended Section 550.065(d), Transportation Code (Committee Printing, page 2, line 36), strike "\$10" and substitute "\$6".

(6) In SECTION 5 of the bill, amended Section 730.007(a), Transportation Code (Committee Printing, page 3, line 35), strike "or".

(7) In SECTION 5 of the bill, amended Section 730.007(a), Transportation Code (Committee Printing, page 3), strike lines 36-38 and substitute:

"(v) motor vehicle market research activities, including survey research; or

(vi) removal of nonowner records from".

(8) In SECTION 5 of the bill, amended Section 730.007(a), Transportation Code (Committee Printing, page 3, lines 65 and 66), strike "or to an owner of a vehicle that is illegally parked".

(9) In SECTION 5 of the bill, amended Section 730.007(a), Transportation Code (Committee Printing page 4), strike lines 1-6 and substitute:

"(I) use by an employer or an agent or insurer of the employer to obtain or verify information relating to a holder of a commercial driver's license that is required under 49 U.S.C. Chapter 313;".

(10) In SECTION 5 of the bill, amended Section 730.007(a), Transportation Code (Committee Printing, page 4) strike line 9 and substitute:

"(K) use by a consumer reporting agency, as defined by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.), for a purpose permitted under that Act; or [for bulk distribution for surveys;]".

(11) In SECTION 5 of the bill, amended Section 730.007(a), Transportation Code (Committee Printing, page 4) strike lines 20-22 and substitute:

"(L) use for any other purpose specifically authorized by law that relates to the operation of a motor vehicle or to public safety."

(12) Add a new section to the bill, appropriately numbered, to read as follows, and renumber subsequent sections accordingly:

SECTION _____. Chapter 38, Penal Code, is amended by adding Section 38.18 to read as follows:

Sec. 38.18. USE OF ACCIDENT REPORT INFORMATION AND OTHER INFORMATION FOR PECUNIARY GAIN. (a) This section applies to:

(1) information described by Section 550.065(a), Transportation Code;

(2) information reported under Chapter 772, Health and Safety Code, other than information that is confidential under that chapter; and

(3) information contained in a dispatch log, a towing record, or a record of a 9-1-1 service provider, other than information that is confidential under Chapter 772, Health and Safety Code.

(b) A person commits an offense if:

(1) the person obtains information described by Subsection (a) from the Department of Public Safety of the State of Texas or other governmental entity; and

(2) the information is subsequently used for the direct solicitation of business or employment for pecuniary gain by:

(A) the person;
(B) an agent or employee of the person; or
(C) the person on whose behalf the information was requested.

(c) A person who employs or engages another to obtain information described by Subsection (a) from the Department of Public Safety or other governmental entity commits an offense if the person subsequently uses the information for direct solicitation of business or employment for pecuniary gain.

(d) An offense under this section is a Class B misdemeanor.

HB 1585 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Gallego called up with senate amendments for consideration at this time,

HB 1585, A bill to be entitled An Act relating to the completion of a sentence in a felony after revocation of parole, mandatory supervision, or conditional pardon.

On motion of Representative Gallego, the house concurred in the senate amendments to **HB 1585**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1585** (Senate Committee Report) by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS accordingly:

SECTION _____. Section 498.004, Government Code, as amended by Chapters 249 and 321, Acts of the 74th Legislature, Regular Session, 1995, is reenacted and amended to read as follows:

Sec. 498.004. **FORFEITURE AND RESTORATION OF GOOD CONDUCT TIME.** (a) If, during the actual term of imprisonment of an inmate in the institutional division or in a transfer facility, the inmate commits an offense or violates a rule of the division, the department may forfeit all or any part of the inmate's accrued good conduct time. The department may [not] restore good conduct time forfeited under this subsection.

(b) On the revocation of parole or mandatory supervision of an inmate, the inmate forfeits all good conduct time previously accrued. On return to the institutional division the inmate may accrue new good conduct time for subsequent time served in the division. The department may [not] restore good conduct time forfeited on a revocation.

HB 1617 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Allen called up with senate amendments for consideration at this time,

HB 1617, A bill to be entitled An Act relating to the expansion of prison industries programs.

On motion of Representative Allen, the house concurred in the senate amendments to **HB 1617** by (Record 573): 135 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Gallego; Garcia; George; Geren; Giddings; Glaze; Goolsby; Gray; Green; Grusendorf; Gutierrez; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Smith; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; West; Williams; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbraneck.

Present, not voting — Mr. Speaker; Haggerty(C).

Absent, Excused — Capelo; Hilbert; Junell; Smithee.

Absent — Alexander; Chavez; Corte; Flores; Goodman; Moreno, P.; Noriega; Shields; Wilson.

STATEMENT OF VOTE

When Record No. 573 was taken, I was in the house but away from my desk. I would have voted yes.

Wilson

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1617** by striking SECTION 6 (Senate Committee report, page 2, line 36) and substituting the following:

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

HB 1776 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Green called up with senate amendments for consideration at this time,

HB 1776, A bill to be entitled An Act relating to the establishment of Celebrate Freedom Week in public schools.

On motion of Representative Green, the house concurred in the senate amendments to **HB 1776** by (Record 574): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum;

Christian; Clark; Cook; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; West; Williams; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Haggerty(C).

Absent, Excused — Capelo; Hilbert; Junell; Smithee.

Absent — Coleman; Corte; Jones, J.; Wilson.

STATEMENT OF VOTE

When Record No. 574 was taken, I was in the house but away from my desk. I would have voted yes.

Wilson

Senate Committee Substitute

CSHB 1776, A bill to be entitled An Act relating to the establishment of Celebrate Freedom Week in public schools.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 29, Education Code, is amended by adding new Section 29.903 to read as follows:

Section 29.903. To educate students about the sacrifices made for freedom in the founding of this country and the values on which this country was founded, the last full week of classes in September is designated as Celebrate Freedom Week in public schools. Celebrate Freedom Week may include appropriate instruction, as determined by each school district, in each social studies class. Instruction should include study of the intent, meaning, and importance of the Declaration of Independence and the United States Constitution, including the Bill of Rights, in their historical context. The study of the Declaration of Independence should include the relationship of the ideas expressed in that document to subsequent American history, including but not limited to the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the United States Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement. During Celebrate Freedom Week, a school district may require students in grade levels 3 through 12 to study the text quoted below:

WE hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed

SECTION 2. (a) This Act applies beginning with the 2001-2002 school year.

(b) This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 1776** in SECTION 1 of the bill, in proposed Section 29.903, Education Code (Senate Committee Printing page 1, line 39), after "Governed...", by inserting:

"The agency, in cooperation with other state agencies who voluntarily participate, may promote Celebrate Freedom Week through a coordinated program. Nothing in this subchapter shall give any other state agency the authority to develop a program that provides instruction unless funds are specifically appropriated to that agency for that purpose."

HB 1806 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Menendez called up with senate amendments for consideration at this time,

HB 1806, A bill to be entitled An Act relating to the issuance of certain alcoholic beverage licenses and permits.

On motion of Representative Menendez, the house concurred in the senate amendments to **HB 1806**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1806** as follows:

(1) In SECTION 1 of the bill, in added Section 11.393(a), Alcoholic Beverage Code (Engrossed version, page 1 line 16, strike "on-premises consumption of alcoholic beverages" and substitute "retail sale of alcoholic beverages for on-premises consumption."

(2) In Section 3 of the bill, in added Section 61.382(a), Alcoholic Beverage Code (Engrossed version, page 1, line 63), strike "on-premises sale of beer" and substitute "retail sale of beer for on-premises consumption".

HB 1890 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative G. Lewis called up with senate amendments for consideration at this time,

HB 1890, A bill to be entitled An Act relating to control of contracts and funds of a commissary for the county jail of certain counties.

On motion of Representative G. Lewis, the house concurred in the senate amendments to **HB 1890**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1890** in SECTION 1 of the bill, proposed Section 351.04155(a), Local Government Code (Senate Committee Printing, page 1, line 18), by striking "200,000" and substituting "300,000".

(Speaker pro tempore in the chair)

**HB 1981 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Farabee called up with senate amendments for consideration at this time,

HB 1981, A bill to be entitled An Act relating to competitive bidding on certain purchases and contracts of governmental entities.

On motion of Representative Farabee, the house concurred in the senate amendments to **HB 1981**.

Senate Committee Substitute

CSHB 1981, A bill to be entitled An Act relating to competitive purchasing procedures applying to certain purchases and contracts of governmental entities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 262, Local Government Code, is amended by adding Section 262.0225 to read as follows:

Sec. 262.0225. ADDITIONAL COMPETITIVE PROCEDURES. (a) In the procedure for competitive bidding under this subchapter, the commissioners court of the county shall provide all bidders with the opportunity to bid on the same items on equal terms and have bids judged according to the same standards as set forth in the specifications.

(b) A county shall receive bids or proposals under this subchapter in a fair and confidential manner.

(c) A county may receive bids or proposals under this subchapter in hard-copy format or through electronic transmission. A county shall accept any bids or proposals submitted in hard-copy format.

SECTION 2. Section 262.023(a), Local Government Code, is amended to read as follows:

(a) Before a county may purchase one or more items under a contract that will require an expenditure exceeding \$25,000, the commissioners court of the county must comply with the competitive bidding or competitive proposal procedures prescribed by this subchapter. ~~[All bids or proposals must be sealed.]~~

SECTION 3. Subchapter C, Chapter 262, Local Government Code, is amended by adding Section 262.0235 to read as follows:

Sec. 262.0235. PROCEDURES ADOPTED BY COUNTY PURCHASING AGENTS FOR ELECTRONIC BIDS OR PROPOSALS. The county purchasing agent, before receiving electronic bids or proposals, shall adopt rules in

conformance with Section 262.011(o) to ensure the identification, security, and confidentiality of electronic bids or proposals.

SECTION 4. Subchapter A, Chapter 271, Local Government Code, is amended by adding Section 271.0065 to read as follows:

Sec. 271.0065. ADDITIONAL COMPETITIVE PROCEDURES. (a) In any procedure for competitive bidding under this subchapter, the governing body shall provide all bidders with the opportunity to bid on the same items on equal terms and have bids judged according to the same standards as set forth in the specifications.

(b) A governmental agency shall receive bids or proposals under this subchapter in a fair and confidential manner.

(c) A governmental agency may receive bids or proposals under this subchapter in hard-copy format or through electronic transmission. A governmental agency shall accept any bids or proposals submitted in hard-copy format.

SECTION 5. Subchapter B, Chapter 271, Local Government Code, is amended by adding Section 271.0245 to read as follows:

Sec. 271.0245. ADDITIONAL COMPETITIVE PROCEDURES. (a) In the procedure for competitive bidding under this subchapter, the governing body of the governmental entity shall provide all bidders with the opportunity to bid on the same items on equal terms and have bids judged according to the same standards as set forth in the specifications.

(b) A governmental entity shall receive bids under this subchapter in a fair and confidential manner.

(c) A governmental entity may receive bids under this subchapter in hard-copy format or through electronic transmission. A governmental entity shall accept any bids submitted in hard-copy format.

SECTION 6. This Act takes effect September 1, 2001.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 1981** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION __. Subchapter C, Chapter 252, Local Government Code, is amended by adding Section 252.0415 to read as follows:

Sec. 252.0415. PROCEDURES FOR ELECTRONIC BIDS OR PROPOSALS. (a) A municipality may receive bids or proposals under this chapter through electronic transmission if the governing body of the municipality adopts rules to ensure the identification, security, and confidentiality of electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time.

(b) Notwithstanding any other provision of this chapter, an electronic bid or proposal is not required to be sealed. A provision of this chapter that applies to a sealed bid or proposal applies to a bid or proposal received through electronic transmission in accordance with the rules adopted under Subsection (a).

HB 2004 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Gray called up with senate amendments for consideration at this time,

HB 2004, A bill to be entitled An Act relating to the medication a patient receives after being furloughed or discharged from inpatient mental health services.

On motion of Representative Gray, the house concurred in the senate amendments to **HB 2004** by (Record 575): 141 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Hunter; Hupp; Isett; Janek; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Nay — Howard.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Capelo; Hilbert; Junell; Smithee.

Absent — Averitt; Jones, D.

STATEMENT OF VOTE

I was shown voting no on Record No. 575. I intended to vote yes.

Howard

Senate Committee Substitute

CSHB 2004, A bill to be entitled An Act relating to the medication a patient receives after being furloughed or discharged from inpatient mental health services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 574.081, Health and Safety Code, is amended by amending Subsection (c) and adding Subsection (h) to read as follows:

(c) The plan must address the patient's mental health and physical needs, including, if appropriate:

(1) the need for sufficient medication on furlough or discharge to last until the patient can see a physician; and

(2) the person or entity that is responsible for providing and paying for the medication.

(h) Subsection (c) does not create a mandate that a facility described by Section 571.003(9)(B) or (E) provide or pay for a medication for a patient.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

HB 2102 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Averitt called up with senate amendments for consideration at this time,

HB 2102, A bill to be entitled An Act relating to the determination of premium rates for certain lines of insurance.

On motion of Representative Averitt, the house concurred in the senate amendments to **HB 2102**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2102**, Engrossed Version, as follows:

(1) In SECTION 4 of the bill, Article 21.81, strike Subsection (j) beginning on page 10, line 3 through page 11, line 3; and

(2) Strike SECTIONS 6 through 13 of the bill and renumber subsequent SECTIONS accordingly.

HB 2109 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Farrar called up with senate amendments for consideration at this time,

HB 2109, A bill to be entitled An Act relating to exempting certain higher education students from the TASP test based on the student's high school grade point average in college preparatory courses.

On motion of Representative Farrar, the house concurred in the senate amendments to **HB 2109** by (Record 576): 138 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Hunter; Hupp; Isett;

Janek; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Solis; Solomons; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wolens; Woolley; Yarbrough; Zbranek.

Nays — Nixon; Wohlgemuth.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Capelo; Hilbert; Junell; Smithee.

Absent — Chisum; Green; Howard; Swinford.

Senate Committee Substitute

CSHB 2109, A bill to be entitled An Act relating to exempting certain higher education students from the TASP test based on the student's high school grade point average in college preparatory courses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 51.306, Education Code, is amended by adding Subsection (x) to read as follows:

(x) A person is exempt from this section if the person graduates from a public high school or an accredited private high school in any state with a grade point average of 3.5 or higher on a 4.0 scale or the equivalent and completed the recommended or advanced high school curriculum established under Section 28.002 or 28.025 or an equivalent or similar curriculum at an accredited private high school or at a high school outside of this state. The exemption is effective only for a student who enrolls in an institution of higher education on or before the second anniversary of the date the student graduated from high school. A student enrolling for the first time in an institution of higher education after the two-year period has elapsed must conform to all applicable provisions of this section. The board by rule shall establish standards for determining for purposes of this subsection:

(1) whether a private high school is accredited; and

(2) whether a person completed a high school curriculum at an accredited private high school or at a high school outside of this state that is equivalent or similar to the recommended or advanced high school curriculum established under Section 28.002 or 28.025.

SECTION 2. Section 51.306(x), Education Code, as added by this Act, applies only to a student entering an institution of higher education on or after the effective date of this Act.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001

**HB 2111 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Gallego called up with senate amendments for consideration at this time,

HB 2111, A bill to be entitled An Act relating to the Office of Court Administration of the Texas Judicial System, the Judicial Committee on Information Technology, and the Texas Judicial Council.

On motion of Representative Gallego, the house concurred in the senate amendments to **HB 2111**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2111** by amending SECTION 3, Sec. 71.021 to add the words ", after a vote by a majority of the members of the Texas Judicial Council," after "court" and before "shall" (page 1, line 24, Committee Printing).

**HB 2159 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Thompson called up with senate amendments for consideration at this time,

HB 2159, A bill to be entitled An Act relating to premium rates and minimum reserves for credit life and accident and health insurance.

On motion of Representative Thompson, the house concurred in the senate amendments to **HB 2159**.

Senate Committee Substitute

CSHB 2159, A bill to be entitled An Act relating to premium rates and minimum reserves for credit life and accident and health insurance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 3, Article 3.28, Insurance Code, is amended to read as follows:

Sec. 3. Computation of Minimum Standard. The minimum standard for the valuation of all such policies and contracts issued prior to the operative date of Article 3.44a (the Standard Nonforfeiture Law for Life Insurance) shall be that provided in Section 12 of this article. Except as otherwise provided in Sections 4 and 5 of this article, the minimum standard for the valuation of all such policies and contracts issued on or after the operative date of Article 3.44a (the Standard Nonforfeiture Law for Life Insurance) shall be the commissioners reserve valuation methods defined in Sections 6, 7, and 10 of this article, three and one-half per cent (3 ½%) interest; in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after June 14, 1973, four per cent (4%) interest for such policies issued prior to August 29, 1977; or five and one-half per cent (5 ½%) interest for single premium life insurance policies and four and one-half per cent (4 ½%) interest for all other such policies issued on and after August 29, 1977, and the following tables:

(a) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies, the

Commissioners 1941 Standard Ordinary Mortality Table for such policies issued prior to the operative date of Section 6 of the Standard Nonforfeiture Law for Life Insurance, as amended, the Commissioners 1958 Standard Ordinary Mortality Table for such policies issued on or after the operative date of Section 6 of the Standard Nonforfeiture Law for Life Insurance, as amended, and prior to the operative date of Section 8 of the Standard Nonforfeiture Law for Life Insurance, as amended, provided that for any category of such policies issued on female risks, all modified net premiums and present values referred to in this Act may be calculated according to an age not more than three years younger than the actual age of the insured for policies issued prior to August 29, 1977 and not more than six years younger than the actual age of the insured for policies issued on and after August 29, 1977; and for such policies issued on or after the operative date of Section 8 of the Standard Nonforfeiture Law for Life Insurance, as amended, (i) the Commissioners 1980 Standard Ordinary Mortality Table, or (ii) at the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors, or (iii) any ordinary mortality table adopted after 1980 by the National Association of Insurance Commissioners that is approved by regulation promulgated by the State Board of Insurance for use in determining the minimum standard valuation for such policies.

(b) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the 1941 Standard Industrial Mortality Table for such policies issued prior to the operative date of Section 7 of the Standard Nonforfeiture Law for Life Insurance, as amended, and for such policies issued on or after such operative date, the Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table adopted after 1980 by the National Association of Insurance Commissioners that is approved by regulation promulgated by the State Board of Insurance for use in determining the minimum standard of valuation for such policies.

(c) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the 1937 Standard Annuity Mortality Table, or, at the option of the company, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the State Board of Insurance.

(d) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the Group Annuity Mortality Table for 1951, any modification of such table approved by the State Board of Insurance, or, at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(e) For total and permanent disability benefits in or supplementary to ordinary policies or contracts, for policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit, or any tables of disablement rates and termination rates adopted after 1980 by the National Association of Insurance Commissioners that are approved by regulation promulgated by the State Board

of Insurance for use in determining the minimum standard of valuation for such policies; for policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either such tables or, at the option of the company, the Class (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability Table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(f) For accidental death benefits in or supplementary to policies, for policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table or any accidental death benefits table adopted after 1980 by the National Association of Insurance Commissioners that is approved by regulation promulgated by the State Board of Insurance for use in determining the minimum standard of valuation for such policies; for policies issued on or after January 1, 1961, and prior to January 1, 1966, either such table or, at the option of the company, the Inter-Company Double Indemnity Mortality Table; and for policies issued prior to January 1, 1961, the Inter-Company Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(g) For group life insurance, life insurance issued on the substandard basis and other special benefits, such tables as may be approved by the State Board of Insurance.

(h) Notwithstanding any other law, the minimum reserve requirements applicable to a policy issued under Article 3.53 of this code are met if, in aggregate, the reserves are maintained at 100 percent of the 1980 Commissioner's Standard Ordinary Mortality Table, with interest not to exceed 5.5 percent. This subsection expires September 1, 2013.

SECTION 2. Subsection A, Section 8, Article 3.53, Insurance Code, is amended to read as follows:

A. (1) Any insurer may revise its schedules of premium rates for various classes of business from time to time, and shall file such revised schedules and classes of business with the commissioner [~~Commissioner~~]. No insurer shall issue any credit life insurance policy or credit accident and health insurance policy for which the premium rate exceeds that determined by the schedules and classes of business of such insurer as then on file with the commissioner [~~Commissioner~~].

(2) The commissioner [~~State Board of Insurance~~] may, after notice and hearing, by rule adopt [~~and promulgate~~] a presumptive premium rate for various classes of business and terms of coverage [~~which shall be presumed, subject to a rebuttal of such presumption, to be just, reasonable, adequate, and not excessive~~]. An insurer that does not file a different rate under Subdivision (5) of this subsection shall file the presumptive rate adopted by the commissioner. Except as provided in this article, any [~~Any~~] hearing conducted or order adopting a presumptive rate pursuant to this section shall be held in accordance with the rulemaking [~~contested case~~] provisions of Chapter 2001, Government Code [~~the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)~~]. In the commissioner's order adopting a presumptive rate, the commissioner shall set forth findings and conclusions on all material issues presented at the hearing.

(3) In determining the presumptive premium rate, the commissioner ~~[board]~~ shall consider reasonable acquisition costs, loss ratios, and administrative expenses, reserves, loss settlement expenses, the type or class of business, the duration of various credit transactions, reasonable and adequate profits to the insurers, and other relevant data. The commissioner ~~[board]~~ may not set a presumptive premium rate that is unjust, unreasonable, inadequate, confiscatory, or excessive to the insurers, the insureds, or agents. The commissioner ~~[board]~~ may not fix or limit the amount of compensation actually paid by a company to an agent. The commissioner ~~[board]~~ may request information from any insurer or agent with respect to compensation paid for the sale of credit insurance, expenses, losses, profits, and any other relevant data relating to the presumptive premium rate and it is the duty of each insurer or agent to provide such information to the commissioner ~~[board]~~ in a timely manner.

(4) Any person aggrieved by the action of the commissioner ~~[board]~~ in the setting of a presumptive rate or any other action taken with regard to the setting of such presumptive rate may, not later than the 30th day after ~~[within 30 days from]~~ the date the commissioner adopts a presumptive rate order, file a petition for judicial review in a district court in Travis County. Judicial review under this subdivision is governed by Subchapter B, Chapter 2001, Government Code ~~[board took the action complained of appeal in accordance with Article 1.04 of this code].~~

(5) An insurer electing to deviate from the presumptive rate shall file with the commissioner the insurer's proposed rate for credit life and credit accident and health insurance. On filing the rate with the commissioner, the insurer may use the filed rate until the insurer elects to file a different rate. Except as provided by Subdivision (6) of this subsection, an insurer may not use a rate that is more than 30 percent higher or more than 30 percent lower than the presumptive rate. Except as provided by this section, a rate that complies with this subdivision is valid and in compliance with the requirements of this section and other applicable law.

(6) An insurer may file with the commissioner a proposed rate for credit life and credit accident and health insurance that is more than 30 percent higher than or more than 30 percent lower than the presumptive rate adopted by the commissioner under this section. The commissioner may disapprove a rate filed under this subdivision on the ground that the rate is not actuarially justified. A rate filed under this subdivision is considered approved and the insurer may use the rate if the rate is not disapproved by the commissioner before the 60th day after the date the insurer filed the rate.

(7) A rate filed under this section is not excessive unless the rate is unreasonably high for the coverage provided and a reasonable degree of competition does not exist with respect to the classification to which the rate is applicable. A rate filed under this section is not inadequate unless either the rate is insufficient to sustain projected losses and expenses, or the rate substantially impairs, or is likely to impair substantially, competition with respect to the sale of the product.

(8) A hearing under Subdivision (6) is a contested case hearing conducted under Chapter 2001, Government Code. Judicial review of any

action of the commissioner under Subdivision (6) is governed by Subchapter D, Chapter 36 of this code.

SECTION 3. Section 40.003(c), Insurance Code, is amended to read as follows:

(c) This chapter does not apply to a proceeding conducted under Article 1.04D or to a proceeding relating to:

(1) approving or reviewing rates or rating manuals filed by an individual company, unless the rates or manuals are contested;

(2) adopting a rule;

(3) adopting or approving a policy form or policy form endorsement;
[or]

(4) adopting or approving a plan of operation for an organization subject to the jurisdiction of the department; or

(5) adopting a presumptive rate under Article 3.53.

SECTION 4. Before January 31, 2005, the commissioner of insurance, in consultation with the office of public insurance counsel, shall submit a report to the 79th Legislature regarding the effect of the changes made by this Act to Article 3.53, Insurance Code, on rates for credit life and accident and health insurance in this state.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 2159** in SECTION 2 of the bill in amended Subdivision (2), Subsection A, Section 8, Article 3.53, Insurance Code, between "(5)" and "of this subsection" (Senate committee printing, page 3, line 5), by inserting "or (6)".

HB 2127 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Averitt called up with senate amendments for consideration at this time,

HB 2127, A bill to be entitled An Act relating to unfair discrimination by the issuer of a health benefit plan; providing penalties.

On motion of Representative Averitt, the house concurred in the senate amendments to **HB 2127**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2127** as follows:

On page 1, line 52 strike "or".

On page 1, line 53, add "or" after the semicolon.

On page 1, after line 53, add "(I) pursuant to Title XXI of the Social Security Act, (42 U.S.C. Section 1397aa et. seq.);".

**HB 2191 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Averitt called up with senate amendments for consideration at this time,

HB 2191, A bill to be entitled An Act relating to availability of health benefit plan coverage under the Texas Health Insurance Risk Pool.

On motion of Representative Averitt, the house concurred in the senate amendments to **HB 2191**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2191** (Senate committee printing) as follows:

(1) In SECTION 2 of the bill, in Subsection (e)(2)(B), Section 10, Article 3.77, Insurance Code (page 2, line 27) strike "(b)(1) or (2)" and substitute "(b)(1) or (3)".

(2) In SECTION 3 of the bill, strike the recital (page 3, lines 19-20) and substitute the following:

Section 13, Article 3.77, Insurance Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(3) In SECTION 3 of the bill, after Subsection (d), Section 13, Article 3.77, Insurance Code (page 3, between lines 37 and 38) insert the following:

(e) An insurer may petition the commissioner for an abatement or deferment of all or part of an assessment imposed by the board. The commissioner may abate or defer all or part of the assessment if the commissioner determines that payment of the assessment would endanger the ability of the insurer to fulfill its contractual obligations. If all or part of an assessment against an insurer is abated or deferred, the amount by which the assessment is abated or deferred shall be assessed against the other insurers in a manner consistent with the basis for computing assessments under this section. An insurer receiving an abatement or deferment under this subsection remains liable to the pool for the deficiency.

**HB 2204 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Gutierrez called up with senate amendments for consideration at this time,

HB 2204, A bill to be entitled An Act relating to the safety of bicyclists and pedestrians; providing criminal penalties.

Representative Gutierrez moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2204**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2204**: Gutierrez, chair, McReynolds, Alexander, Walker, and Hardcastle.

HB 2218 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Rangel called up with senate amendments for consideration at this time,

HB 2218, A bill to be entitled An Act relating to the amount of the international education fee charged at certain institutions of higher education.

On motion of Representative Rangel, the house concurred in the senate amendments to **HB 2218** by (Record 577): 136 Yeas, 1 Nay, 2 Present, not voting.

Yeas — Alexander; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Christian; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Yarbrough; Zbranek.

Nay — Clark.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Capelo; Hilbert; Junell; Smithee.

Absent — Allen; Hartnett; Hawley; Maxey; Pickett; Walker; Woolley.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2218** (Enrolled Version) on page 1, line 11 after "." insert the following: The amount of the fee may be increased only if the increase is approved by a majority vote of the students at the institution participating in an election called for that purpose.

HB 2243 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Bosse called up with senate amendments for consideration at this time,

HB 2243, A bill to be entitled An Act relating to the Vehicle Storage Facility Act.

On motion of Representative Bosse, the house concurred in the senate amendments to **HB 2243**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2243** on page 1, line 20, between the words "least" and "years," by striking the number "15" and replacing it with "10".

**HB 2250 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Smith called up with senate amendments for consideration at this time,

HB 2250, A bill to be entitled An Act relating to certain criminal consequences of certain previous intoxication convictions.

On motion of Representative Smith, the house concurred in the senate amendments to **HB 2250**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2250** as follows:

(1) Strike SECTION 2 of the bill and substitute the following:

SECTION 2. Sections 49.09(e) and (f), Penal Code, are amended to read as follows:

(e) Except as provided by Subsection (f), a [A] conviction may not be used for purposes of enhancement under this section if:

(1) the conviction was a final conviction under Subsection (d);

(2) the offense for which the person is being tried was committed more than 10 years after the latest of:

(A) the date on which the judgment was entered for the previous conviction;

(B) the date on which the person was discharged from any period of community supervision on which the person was placed for the previous conviction;

(C) the date on which the person successfully completed any period of parole on which the person was released after serving a portion of the term to which the person was sentenced for the previous conviction; or

(D) the date on which the person completed serving any term for which the person was confined or imprisoned for the previous conviction [and was for an offense committed more than 10 years before the offense for which the person is being tried was committed]; and

(3) ~~[(2)]~~ the person has not been convicted of an offense under Section 49.04, 49.05, 49.06, 49.065, 49.07, or 49.08 or any offense related to operating a motor vehicle while intoxicated [committed] within 10 years of [before] the latest date under Subdivision (2) [on which the offense for which the person is being tried was committed].

(f) A conviction may be used for the purposes of enhancement under this section regardless of when the conviction occurred if the conviction was for an offense under:

(1) Section 49.08 involving the operation of a motor vehicle; or

(2) Section 19.05(a)(2), as that law existed before September 1, 1994, involving the operation of a motor vehicle.

(g) A conviction may be used for purposes of enhancement under this section or enhancement under Subchapter D, Chapter 12, but not under both this section and Subchapter D.

(2) In SECTION 3 of the bill, in the transition language of the bill, (Senate Committee Printing, page 2), strike lines 17-19 and substitute:

SECTION 3. The change in law made by this Act applies only to the enhancement of punishment at the trial of an offense committed on or after the effective date of this Act. The enhancement of punishment at the trial of an offense committed before the effective date of this Act is

(Speaker in the chair)

INTRODUCTION OF GUEST

The speaker introduced the Honorable Tim Ford, speaker of the house in Mississippi, who briefly addressed the house.

(Speaker pro tempore in the chair)

HB 2262 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Danburg called up with senate amendments for consideration at this time,

HB 2262, A bill to be entitled An Act relating to certain requirements for membership on the governing board of certain state agencies.

On motion of Representative Danburg, the house concurred in the senate amendments to **HB 2262**.

Senate Committee Substitute

CSHB 2262, A bill to be entitled An Act relating to the requirements for membership on the Texas Optometry Board.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 351.051(a), Occupations Code, is amended to read as follows:

(a) The Texas Optometry Board consists of nine members appointed by the governor with the advice and consent of the senate as follows:

(1) ~~six [three] optometrists or therapeutic optometrists [who are affiliated with the Texas Optometric Association, Inc.;~~

~~[(2) three optometrists or therapeutic optometrists who are affiliated with the Texas Association of Optometrists, Inc.]; and~~

~~(2) [(3)] three members who represent the public.~~

SECTION 2. Section 351.052, Occupations Code, is amended to read as follows:

Sec. 351.052. MEMBERSHIP ELIGIBILITY. (a) An optometrist or therapeutic optometrist member of the board must have been a resident of this state engaged in the practice of optometry or therapeutic optometry in this state for the five years preceding the date of the member's appointment.

(b) ~~[An optometrist or therapeutic optometrist member of the board may not simultaneously be a member of both the Texas Optometric Association, Inc., and the Texas Association of Optometrists, Inc.]~~

[(c)] A person is not eligible for appointment as a public member of the board if the person or the person's spouse:

(1) is registered, certified, or licensed by an occupational regulatory agency in the field of health care;

(2) is employed by or participates in the management of or is an officer or paid consultant of a business entity or other organization that provides health care services or that sells, manufactures, or distributes health care supplies or equipment;

(3) owns, controls, or has, directly or indirectly, a financial interest in a business entity or other organization that provides health care services or that sells, manufactures, or distributes health care supplies or equipment; or

(4) uses or receives a substantial amount of tangible goods, services, or funds from the board, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

SECTION 3. Section 351.054(a), Occupations Code, is amended to read as follows:

(a) Members of the board serve staggered six-year terms. The terms of two optometrist or therapeutic optometrist members ~~[one member affiliated with the Texas Optometric Association, Inc., one member affiliated with the Texas Association of Optometrists, Inc.,]~~ and one public member expire on January 31 of each odd-numbered year.

SECTION 4. Section 351.055, Occupations Code, is amended to read as follows:

Sec. 351.055. OFFICERS. [(a)] The board shall elect a presiding officer, an assistant presiding officer, and a secretary-treasurer every two years.

~~[(b) The presiding officer and the assistant presiding officer may not be from the same group of the three groups represented on the board.]~~

SECTION 5. Section 351.151, Occupations Code, is amended to read as follows:

Sec. 351.151. RULES. (a) The board by a majority vote of a quorum may adopt [a] procedural and substantive rules ~~[rule]~~.

~~(b) [The board may adopt a substantive rule only if a majority of each of the three groups represented on the board votes to adopt the rule.]~~

[(c)] The board may not adopt a substantive rule before submitting the proposed rule to the attorney general for a ruling on the proposed rule's validity.

SECTION 6. Section 351.152(a), Occupations Code, is amended to read as follows:

(a) The board ~~[by majority vote of each of the three groups represented on the board]~~ shall set fees in amounts reasonable and necessary so that in the aggregate the fees produce sufficient revenue to cover the cost of administering this chapter. The board shall set fee amounts so as not to maintain an unnecessary fund balance.

SECTION 7. (a) The change in law made by this Act applies only to the appointment of a person as a member of the Texas Optometry Board on or after the effective date of this Act.

(b) The eligibility of a person serving as a member of the Texas Optometry Board on the effective date of this Act is governed by the law in effect immediately before the effective date of this Act and, unless removed

as otherwise provided by law, the person may continue to serve for the remainder of the person's term.

SECTION 8. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 2262** by adding the following appropriately numbered sections.

SECTION _____. Title 2, Occupations Code, is amended by adding Chapter 57 to read as follows:

CHAPTER 57. REQUIREMENTS FOR LICENSING AGENCIES

Sec. 57.001. DEFINITIONS. In this chapter:

(1) "License" means a license, certificate, registration, permit, or other form of authorization required by law or state agency rule that must be obtained by an individual to engage in a particular business, occupation, or profession.

(2) "State agency" means a department, board, bureau, commission, committee, division, office, council, or agency of the state.

Sec. 57.002. REQUIREMENTS FOR GOVERNING BOARD MEMBERSHIP. A person may not be required to be a member of a private trade association as a precondition to serving as a member of the governing board of a state agency that issues a license or otherwise regulates a business, occupation, or profession.

Sec. 57.003. APPLICATION OF CHAPTER. This chapter does not apply to the Texas Energy Resource Council.

SECTION _____. (a) The change in law made by this Act applies to the appointment of a person as a member of a governing board subject to Chapter 57, Occupations Code, as added by this Act, on or after the effective date of this Act.

(b) A member of a governing board subject to Chapter 57, Occupations Code, as added by this Act, who is serving on the governing board on the effective date of this Act is subject to the law in effect on the date preceding the effective date of this Act and, unless otherwise removed as provided by law, may continue to serve for the remainder of the member's term.

(c) Section 57.003, Occupations Code, as added by this Act, takes effect only if the 77th Legislature, at its regular session, enacts a bill creating a Texas Energy Resource Council and that bill becomes law. If that bill does not become law, Section 57.003, Occupations Code, has no effect.

HB 2277 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Carter called up with senate amendments for consideration at this time,

HB 2277, A bill to be entitled An Act relating to contracts by certain educational institutions, state agencies, and local governments for energy conservation measures.

On motion of Representative Carter, the house concurred in the senate amendments to **HB 2277**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2277** as follows:

On page 13, line 25, strike the line and replace with the following:

"A contract under this chapter may be let in accordance with".

**HB 2295 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Woolley called up with senate amendments for consideration at this time,

HB 2295, A bill to be entitled An Act relating to the powers of Harris County Improvement District No. 1.

On motion of Representative Woolley, the house concurred in the senate amendments to **HB 2295** by (Record 578): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbrank.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Capelo; Hilbert; Junell; Smithee.

Absent — Dukes; Maxey; Miller; Pitts.

Senate Committee Substitute

CSHB 2295, A bill to be entitled An Act relating to the powers of Harris County Improvement District No. 1; authorizing the imposition of taxes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 6, Chapter 1026, Acts of the 70th Legislature, Regular Session, 1987, is amended by adding Subsection (C) to read as follows:

(C) Except as otherwise provided, Chapter 375, Local Government Code, applies to the district. The district has the rights, powers, privileges, authority, and functions of a district created under Chapter 375, Local Government Code.

SECTION 2. Chapter 1026, Acts of the 70th Legislature, Regular Session, 1987, is amended by adding Section 7A to read as follows:

Sec. 7A. TAXES AND ASSESSMENTS. (A) The district may impose an ad valorem tax, assessment, or impact fee in accordance with Chapter 375, Local Government Code, to provide improvements or services for a project or activity the district is authorized to acquire, construct, improve, or provide under this Act, if a written petition has been filed with the board of directors, requesting those improvements or services, signed by:

(1) the owners of 50 percent or more of the assessed value of the property in the district as determined from the most recent certified county property tax rolls; or

(2) 25 owners of property in the district, if there are more than 25 persons who own property in the district as determined by the most recent certified county property tax rolls.

(B) The district may not impose an impact fee or assessment on the property, equipment, rights-of-way, facilities, or improvements of:

(1) an electric utility or a power generation company, as those terms are defined by Section 31.002, Utilities Code; or

(2) a gas utility, as that term is defined by Section 101.003 or 121.001, Utilities Code; or

(3) a telecommunications provider, as that term is defined by Section 51.002 (10), Utilities Code; or

(4) a cable system, as that term is defined by the Communications Act of 1934, as amended, Title VI, Sec. 602, Subsection 7.

SECTION 3. Chapter 1026, Acts of the 70th Legislature, Regular Session, 1987, is amended by adding Section 7B to read as follows:

Sec. 7B. NONPROFIT CORPORATION. (A) The board of directors by resolution may authorize the creation of a nonprofit corporation to assist and act on behalf of the district in implementing a project or providing a service authorized by this Act.

(B) The board of directors of the district shall appoint the board of directors of a nonprofit corporation created under this section. The board of directors of the nonprofit corporation serves in the same manner as, for the same term as, and on the conditions of the board of directors of a local government corporation created under Chapter 431, Transportation Code.

(C) A nonprofit corporation created under this section has the powers of, and is considered for purposes of this Act to be, a local government corporation created under Subchapter D, Chapter 431, Transportation Code.

(D) A nonprofit corporation created under this section may implement any project and provide any services authorized by this Act.

SECTION 4. Chapter 1026, Acts of the 70th Legislature, Regular Session, 1987, is amended by adding Section 7C to read as follows:

Sec. 7C MISCELLANEOUS POWERS OF DISTRICT. (a) The district may:

(1) finance, acquire, construct, improve, operate, maintain, or charge fees for the use of its own conduits for fiber-optic cable, electronic transmission lines, or other types of transmission lines and supporting facilities; or

(2) finance, acquire, construct, improve, operate, or maintain conference centers and supporting facilities.

(b) Nothing in this section grants the district any authority to require a person to use the conduits authorized by this section.

SECTION 5. Section 13, Chapter 1026, Acts of the 70th Legislature, Regular Session, 1987, is amended to read as follows:

Sec. 13. ANNEXATION. (A) The district may, subject to the approval of the governing body of the City of Houston, Texas:

(1) annex territory [land] in accordance with Subchapter J, Chapter 49 [Chapter 54], Water Code; or

(2) annex territory located inside the boundaries of a reinvestment zone created under Chapter 311, Tax Code, as those boundaries exist on September 1, 2001, as provided by this section.

(B) The district may annex territory under Subsection (A) (2) only if:

(1) the district holds a public hearing on the proposed annexation and publishes notice in the district not later than the 15th day before the date of the hearing; and

(2) a majority of the qualified voters of the area that the district wants to annex, voting at an election called and held within the area that the district wants to annex:

(a) approve the annexation;

(b) approve the assumption of the bonds, notes, obligations, taxes, and special assessments created before the annexation of the area to the district; and

(c) approve the assumption of the bonds of the district payable wholly or partly from taxes or special assessments that have been voted previously but not yet issued or sold and the levy of an ad valorem tax or special assessment on all taxable property within the annexed area for the payment of the bonds.

(C) If, at an election held under Subsection (B), the voters approve each proposition, the board of directors may adopt an order adding the annexed territory into the district.

(D) If the board of directors orders an election to be held under Subsection (B), the election must be held and notice must be given in the area that the district wants to annex as provided for a bond election held by the district. The district may hold an election to annex territory on the same day as any other district election. The board may call an election to annex territory by a separate election order or as a part of any other election order. The board may submit multiple purposes in a single proposition at an election. The board may order multiple elections to annex the same territory.

(E) The district may annex defined areas of land, regardless of whether the areas are contiguous to the district.

(F) An annexed area shall bear the area's pro rata share of all bonds, notes, or other obligations, taxes, or special assessments that may be owned, contracted for, or authorized by the district.

(G) The election, notice, and hearing requirements imposed by this section do not apply to an annexation under Subchapter J, Chapter 49, Water Code.[- subject to the approval of the governing body of the city of Houston, Texas.]

SECTION 6. (a) The legislature validates and confirms all governmental acts and proceedings of Harris County Improvement District No. 1 and the district's board of directors that occurred before the effective date of this Act.

(b) This section does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation, if the litigation ultimately results in the matter being held invalid by a final judgment of a court of competent jurisdiction; or

(2) has been held invalid by a court of competent jurisdiction.

SECTION 7. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

HB 2313 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Bosse called up with senate amendments for consideration at this time,

HB 2313, A bill to be entitled An Act relating to the disposing of abandoned motor vehicles.

On motion of Representative Bosse, the house concurred in the senate amendments to **HB 2313**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2313** on page 1, line 7, between the words "least" and "years," by striking the number "15" and replacing it with "10".

HB 2323 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Gallego called up with senate amendments for consideration at this time,

HB 2323, A bill to be entitled An Act relating to repayment assistance for certain law school loans of persons providing legal services to the indigent.

On motion of Representative Gallego, the house concurred in the senate amendments to **HB 2323**. (Craddick recorded voting no)

Senate Committee Substitute

CSHB 2323, A bill to be entitled An Act relating to repayment assistance for certain law school loans of persons providing legal services to the indigent.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 61, Education Code, is amended by adding Subchapter X to read as follows:

SUBCHAPTER X. REPAYMENT OF CERTAIN LAW SCHOOL EDUCATION LOANS

Sec. 61.951. REPAYMENT ASSISTANCE AUTHORIZED. (a) The board shall provide, in accordance with this subchapter and board rules, assistance in the repayment of law school education loans for attorneys who apply and qualify for the assistance.

(b) The provision of financial assistance in the repayment of education loans under this subchapter promotes a public purpose.

Sec. 61.952. ELIGIBILITY. To be eligible to receive repayment assistance, an attorney must:

(1) apply to the board; and

(2) be currently practicing in this state as an attorney employed by an organization that:

(A) qualifies for an exemption from federal income taxes under Section 501(c)(3), Internal Revenue Code of 1986, as amended, that is prohibited from providing representation in a class-action lawsuit; and

(B) receives funds for providing legal services to indigent individuals from:

(i) the Interest on Lawyers' Trust Accounts program administered by the Texas Equal Access to Justice Foundation; or

(ii) the basic civil legal services account under Section 51.943, Government Code.

Sec. 61.953. LIMITATIONS. (a) An attorney may receive repayment assistance grants for each of not more than 10 years.

(b) The amount of loan repayment assistance received by an attorney under this subchapter may not exceed 50 percent of the total amount of the attorney's outstanding law school loans, including scheduled interest payments that would become due if the loan is not prepaid, when the attorney enters into the agreement.

Sec. 61.954. ELIGIBLE LOANS. (a) The board may provide repayment assistance for the repayment of any education loan received by the attorney through any lender for education at a school of law authorized by the board to award a degree that satisfies the law study requirements for licensure as an attorney in this state.

(b) The board may not provide repayment assistance for an education loan that is in default at the time of the attorney's application.

Sec. 61.955. REPAYMENT. (a) The board shall deliver any repayment assistance made under this subchapter in a lump sum payable to the lender and the attorney and in accordance with any applicable federal law.

(b) Loan repayment assistance received under this subchapter may be applied to the principal amount of the loan and to interest that accrues.

Sec. 61.956. ADVISORY COMMITTEE. The board may appoint an advisory committee to assist the board in performing the board's duties under this subchapter.

Sec. 61.957. ACCEPTANCE OF GIFTS. The board may solicit and accept gifts, grants, and donations for the purposes of this subchapter.

Sec. 61.958. RULES. (a) The board shall adopt rules necessary for the administration of this subchapter, including a rule that sets a maximum amount of repayment assistance that an attorney may receive in one year.

(b) The board shall distribute a copy of the rules adopted under this section and pertinent information in this subchapter to:

(1) each school of law authorized by the board to award a degree described by Section 61.954(a);

(2) any appropriate state agency; and

(3) any appropriate professional association.

SECTION 2. The Texas Higher Education Coordinating Board shall adopt

the rules for the repayment assistance program under Subchapter X, Chapter 61, Education Code, as added by this Act, not later than December 1, 2001.

SECTION 3. This Act takes effect September 1, 2001.

Senate Amendment No. 1 (Senate Floor Amendment No. 2)

Amend **CSHB 2323** by adding the following appropriately numbered section and renumbering all other sections:

Chapter 61, Education Code, is amended by adding Subchapter X to read as follows:

SUBCHAPTER X. REPAYMENT OF CERTAIN
LAW SCHOOL EDUCATION LOANS

Sec. 61.951. DEFINITION. In this subchapter, "rural county" means a county with a population of 50,000 or less.

Sec. 61.952. REPAYMENT ASSISTANCE AUTHORIZED. (a) The board shall provide, using funds appropriated for that purpose and in accordance with this subchapter and board rules, assistance in the repayment of law school education loans for attorneys who apply and qualify for the assistance.

(b) The provision of financial assistance in the repayment of education loans under this subchapter promotes a public purpose.

Sec. 61.953. ELIGIBILITY. To be eligible to receive repayment assistance, an attorney must:

- (1) apply to the board;
- (2) be currently employed as an attorney by a district or county attorney's office that serves a rural county; and
- (3) enter into an agreement to remain employed by the district or county attorney's office as provided by Section 61.955.

Sec. 61.954. ELIGIBLE LOANS. (a) The board may provide repayment assistance for the repayment of any education loan received by the attorney through any lender for education at a school of law authorized by the board to award a degree that satisfies the law study requirements for licensure as an attorney in this state.

(b) The board may not provide repayment assistance for an education loan that is in default at the time of the attorney's application.

Sec. 61.955. AGREEMENT. (a) To qualify for loan repayment assistance under this subchapter, a person must enter into a written agreement with the board as provided by this section. The agreement must specify the conditions the person must satisfy to receive repayment assistance.

(b) The agreement must require the person to be employed for a period of five years with a district or county attorney's office that serves a rural county. Only employment with that district or county attorney's office as an attorney after the date the person enters into the agreement may be used to satisfy the employment requirement under the agreement.

(c) The agreement must provide that the repayment assistance the person receives before the person has been employed for five years as required by the agreement constitutes a loan until the person completes the five years of employment and satisfies any other applicable conditions of the agreement. The agreement must require the person to sign a promissory note

acknowledging the conditional nature of the repayment assistance received and promising to repay the amount of that assistance received plus applicable interest and reasonable collection costs if the person does not satisfy the applicable conditions. The board shall determine the terms of the promissory note. To the extent practicable, the terms must be the same as those applicable to state or federally guaranteed student loans made at the same time. All amounts collected in repayment of a loan under this subsection, including interest, but excluding collection costs paid by the board to another person to collect or assist in collecting the amount, shall be deposited to the credit of the trust fund established by Section 61.958.

Sec. 61.956. REPAYMENT. (a) Except as provided by Section 61.959(a), the board shall provide repayment assistance under this subchapter in the following amounts:

(1) 60 percent of each payment due on an attorney's eligible loans during the first 12-month period after the attorney enters into the agreement under Section 61.955;

(2) 80 percent of each payment due on an attorney's eligible loans during the second 12-month period after the attorney enters into the agreement; and

(3) 100 percent of each payment due on an attorney's eligible loans during the third 12-month period after the attorney enters into the agreement.

(b) The board shall deliver any repayment assistance made under this subchapter in a lump sum payable to the lender and the attorney and in accordance with any applicable federal law.

(c) Loan repayment assistance received under this subchapter may be applied to the principal amount of the loan and to interest that accrues.

Sec. 61.957. ADVISORY COMMITTEE. The board may appoint an advisory committee from outside the board's membership to assist the board in performing the board's duties under this subchapter.

Sec. 61.958. FUNDING. (a) The loan repayment assistance program established by this subchapter is funded from the rural district and county attorney student loan assistance trust fund. The trust fund is established outside the treasury and is administered by the comptroller. Money in the trust fund may be spent without appropriation and only to fund the program. Interest and income from the assets of the trust fund shall be credited to and deposited in the trust fund.

(b) The board may solicit and accept gifts, grants, and donations from any public or private source for the purposes of this subchapter and shall deposit money accepted under this subsection to the credit of the trust fund.

(c) The legislature may appropriate money to the trust fund.

Sec. 61.959. RULES. (a) The board shall adopt rules necessary for the administration of this subchapter, including a rule that sets the maximum amount of loan repayment assistance that an attorney may receive in one year.

(b) The board shall distribute a copy of the rules adopted under this section and pertinent information in this subchapter to:

(1) each school of law authorized by the board to award a degree described by Section 61.954(a); and

(2) any appropriate district or county attorney's

Senate Amendment No. 2 (Senate Floor Amendment No. 3)

Amend **CSHB 2323** as follows and renumber all appropriate sections of the bill:

(1) Insert "(2) be a full-time employee of the eligible organization; and" after the word "and" on page 1, line 24 of the bill.

(2) Insert "(c) any repayment assistance shall be reasonably related to the amount of time an attorney is employed by the eligible organization." after subsection (b) in Section 61.955 of the bill.

**HB 2337 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Goolsby called up with senate amendments for consideration at this time,

HB 2337, A bill to be entitled An Act relating to the practice of landscape architecture.

On motion of Representative Goolsby, the house concurred in the senate amendments to **HB 2337**.

Senate Committee Substitute

CSHB 2337, A bill to be entitled An Act relating to the practice of landscape architecture.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1(b), Chapter 457, Acts of the 61st Legislature, Regular Session, 1969 (Article 249c, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) "Landscape architecture":

(1) means the art and science of landscape analysis, landscape planning, and landscape design;

(2) includes the performance of professional services such as consultation, investigation, research, the preparation of general development and detailed site design plans, the preparation of studies, the preparation of specifications, and responsible supervision related to the development of landscape areas for:

(A) the planning, preservation, enhancement, and arrangement of land forms, natural systems, features, and plantings, including ground and water forms;

(B) the planning and design of vegetation, circulation, walks, and other landscape features to fulfill aesthetic and functional requirements;

(C) the formulation of graphic and written criteria to govern the planning and design of landscape construction development programs, including:

(i) the preparation, review, and analysis of master and site plans for landscape use and development;

(ii) the analysis of environmental, physical, and social considerations related to land use;

(iii) the preparation of drawings, construction documents, and specifications; and

(iv) construction observation;

(D) design coordination and review of technical submissions, plans, and construction documents prepared by persons working under the direction of the landscape architect;

(E) the preparation of feasibility studies, statements of probable construction costs, and reports and site selection for landscape development and preservation;

(F) the integration, site analysis, and determination of the location of buildings, structures, and circulation and environmental systems;

(G) the analysis and design of:

(i) site landscape grading and drainage;

(ii) systems for landscape erosion and sediment control; and

(iii) pedestrian walkway systems;

(H) the planning and placement of uninhabitable landscape structures, plants, landscape lighting, and hard surface areas;

(I) the collaboration of landscape architects with other professionals in the design of roads, bridges, and structures regarding the functional, environmental, and aesthetic requirements of the areas in which they are to be placed; and

(J) field observation of landscape site construction, revegetation, and maintenance; and

~~(3) does [performance of professional services such as consultation, investigation, research, preparation of general development and detailed design plans, studies, specifications, and responsible supervision in connection with the development of land areas where, and to the extent that, the principal purpose of such service is to arrange and modify the effects of natural scenery for aesthetic effect, considering the use to which the land is to be put. Such services concern the arrangement of natural forms, features, and plantings, including the ground and water forms, vegetation, circulation, walks, and other landscape features to fulfill aesthetic and functional requirements but shall] not include;~~

(A) traffic, roadway, or pavement engineering;

(B) the design of utilities;

(C) the engineering or study of hydrologic management of stormwater systems or floodplains;

(D) the making of final plats; or

(E) any services or functions within the definition of the practice of engineering, public surveying, or architecture as defined by the laws of this state.

SECTION 2. Section 2, Chapter 457, Acts of the 61st Legislature, Regular Session, 1969 (Article 249c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. PRACTICE OF LANDSCAPE ARCHITECTURE; ACCEPTANCE OF ASSIGNMENTS [EXEMPTIONS]. (a) A person may not engage in the practice of landscape architecture unless the person holds a certificate of registration under this article or the person:

(1) holds a license or permit issued by the Department of Agriculture,

if that license or permit authorizes the person to engage in the business of selling nursery stock in this state;

(2) is a building designer;

(3) is a landscape contractor;

(4) is a landscape designer;

(5) is a golf course designer or planner involved in services such as consultation, investigation, reconnaissance, research, design, preparation of drawings and specifications, and supervision, if the dominant purpose of the service is golf course design or planning;

(6) makes a plan, drawing, or specification for personal use, if the plan, drawing, or specification is for property that is owned by that person;

(7) makes a plan, drawing, or specification for a single-family residence;

(8) makes a plan, drawing, or specification for a multifamily residential project that is not an assisted living facility as defined by Section 247.002, Health and Safety Code;

(9) makes a plan, drawing, or specification for residential housing owned and operated by an institution of higher education as defined by Section 61.003, Education Code;

(10) is engaged in the location, arrangement, and design of any tangible objects and features that are incidental and necessary to landscape development, preservation, and aesthetic and functional enhancement, if that engagement is for:

(A) the design of structures or facilities with separate and self-contained purposes that are ordinarily included in the practice of engineering or architecture; or

(B) the making of land surveys for official approval or recording;

(11) is licensed in this state to practice:

(A) architecture;

(B) engineering; or

(C) land surveying;

(12) is primarily engaged in the business of park and recreation planning and involved in services such as consultation, investigation, reconnaissance, research, design, preparation of drawings and specifications, and supervision, if the dominant purpose of those services is park and recreation design and planning;

(13) is primarily engaged in maintaining an existing landscape;

(14) makes a plan, drawing, or specification for property primarily used for farm, ranch, agriculture, wildlife management, or habitat restoration purposes; or

(15) is a volunteer acting under the direction of a governmental entity for a public purpose [The provisions of this Act do not apply to nor affect laws relating to a professional engineer, building designer, land surveyor, nurseryman, or an architect (except landscape architect), respectively].

(b) A person described by Subsection (a) may not use the term "landscape architect," "landscape architectural," or "landscape architecture," or any similar term, to describe the person or the services the person provides unless the

person holds a certificate of registration under this article [~~Every agriculturist, agronomist, horticulturist, forester, gardener, contract gardener, garden or lawn caretaker, nurseryman, grader or cultivator of land and any person making plans for property owned by himself is exempt from registration under the provisions of this Act, provided however, none of the foregoing shall use the title or term "landscape architect" in any sign, card, listing, or advertisement or represent himself to be a "landscape architect" without complying with the provisions of this Act].~~

(c) A landscape architect may not accept an assignment to engage in the practice of landscape architecture unless:

(1) the landscape architect is qualified by education, examination, or experience to adequately and competently perform the assignment; or

(2) if the landscape architect is not qualified to perform part of the assignment, that part of the assignment is to be performed by persons who are qualified.

SECTION 3. Section 5(a), Chapter 457, Acts of the 61st Legislature, Regular Session, 1969 (Article 249c, Vernon's Texas Civil Statutes), is amended to read as follows:

~~(a) [No person shall represent himself as a landscape architect, as defined herein, unless such person holds a certificate of registration as a landscape architect issued by the board.]~~ A person must satisfactorily pass the examination as may be prescribed by the board to be registered as provided herein. Any person who has graduated from a landscape architectural educational program recognized and approved by the board and has had satisfactory experience in landscape architecture as required by rules adopted by the board may apply for examination. The application must be accompanied by a registration fee, set by the board in an amount that is reasonable and necessary to defray administrative costs. The examination shall be approved by the members of the board and shall be given by the board at its office in Austin, Travis County, Texas, or such other place as the board may determine or designate. The scope of the examination and the methods of procedure shall be prescribed by the board with special reference to the applicant's ability which will insure safety to the public welfare and property rights.

SECTION 4. The legislature intends that this Act does not prohibit a building designer, landscape contractor, landscape designer, or nurseryman from performing any action that the person had the authority to perform as of May 28, 2001.

SECTION 5. The provisions of this Act are not severable and would not have been enacted without the others. If any provision of this Act is invalid, each provision is invalid.

SECTION 6. This Act takes effect September 1, 2001.

HB 2351 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hinojosa called up with senate amendments for consideration at this time,

HB 2351, A bill to be entitled An Act relating to requiring the corroboration of certain testimony in a criminal case involving controlled substances.

On motion of Representative Hinojosa, the house concurred in the senate amendments to **HB 2351**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2351** by striking SECTION 1 of the bill and substituting the following:

SECTION 1. Chapter 38, Code of Criminal Procedure, is amended by adding Article 38.141 to read as follows:

Art. 38.141. TESTIMONY OF UNDERCOVER PEACE OFFICER OR SPECIAL INVESTIGATOR. (a) A defendant may not be convicted of an offense under Chapter 481, Health and Safety Code, on the testimony of a person who is not a licensed peace officer or a special investigator but who is acting covertly on behalf of a law enforcement agency or under the color of law enforcement unless the testimony is corroborated by other evidence tending to connect the defendant with the offense committed.

(b) Corroboration is not sufficient for the purposes of this article if the corroboration only shows the commission of the offense.

(c) In this article, "peace officer" means a person listed in Article 2.12, and "special investigator" means a person listed in Article 2.122.

**HB 2368 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative George called up with senate amendments for consideration at this time,

HB 2368, A bill to be entitled An Act relating to the fees assessed by a district court in Dallas County for certain services rendered in juvenile or family law cases.

On motion of Representative George, the house concurred in the senate amendments to **HB 2368**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2368** (Senate Committee Printing) as follows:

In Section 1, subsection (f) is amended to read as follows:

"(f) The judge of a district court in Dallas County that gives preference to juvenile or family law matters may assess a fee of not more than \$250 [~~\$200~~] a case for adoption, family, and home study investigations ordered by the judge if the investigation is performed by the court services department or another agency funded by the county. The judge shall set the amount of the fee and the method of payment to be assessed against the parties to the case."

**HB 2378 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Kuempel called up with senate amendments for consideration at this time,

HB 2378, A bill to be entitled An Act relating to the cigarette tax and providing a penalty.

On motion of Representative Kuempel, the house concurred in the senate amendments to **HB 2378**.

Senate Committee Substitute

CSHB 2378, A bill to be entitled An Act relating to the cigarette tax and providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 154.0415, Tax Code, is amended to read as follows:

Sec. 154.0415. CIGARETTES TO WHICH STAMPS MAY NOT BE AFFIXED. A person may not affix a stamp to a package of cigarettes if the package:

(1) does not comply with the Cigarette Labeling and Advertising Act (15 U.S.C. Section 1331 et seq.) for the placement of labels, warnings, or any other information for a package of cigarettes to be sold within the United States;

(2) is labeled "For Export Only," "U.S. Tax Exempt," "For Use Outside U.S.," or other wording indicating that the manufacturer did not intend that the product be sold in the United States;

(3) has been altered by adding or deleting wording, labels, or warnings described in Subdivision (1) or (2);

(4) has been imported into the United States [~~after January 1, 2000;~~] in violation of 26 U.S.C. Section 5754; [~~or~~]

(5) in any way violates federal trademark or copyright laws; or

(6) contains cigarettes with respect to which any person is not in compliance with 15 U.S.C. Section 1335a, as amended, relating to submission of ingredient information to federal authorities, 19 U.S.C. Sections 1681-1681b, as amended, relating to imports of certain cigarettes, 26 U.S.C. Section 5754, as amended, or relating to previously exported tobacco products.

SECTION 2. Section 154.053, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) The comptroller shall design and furnish stamps in a manner that permits identification of the person that affixed the stamp to the particular package of cigarettes by means of a number or other mark on the stamp. The comptroller shall maintain for at least four years the information identifying the person that affixed the stamp to each package of cigarettes.

SECTION 3. Section 154.201, Tax Code, is amended to read as follows:

Sec. 154.201. RECORD OF PURCHASE OR RECEIPT. Each distributor, wholesaler, bonded agent, and export warehouse shall keep records at each place of business of all cigarettes purchased or received, including records of those cigarettes for which no tax is due under federal law. Each retailer shall keep records at a single location, which the retailer shall designate as its principal place of business in this state, of all cigarettes purchased and received. These records must include:

(1) the name and address of the shipper or carrier and the mode of transportation;

(2) all shipping records or copies of records, including invoices, bills of lading, waybills, freight bills, and express receipts;

(3) the date and the name of the place of origin of the cigarette shipment;

(4) the date and the name of the place of arrival of the cigarette shipment;

(5) a statement of the number, kind, and price paid for cigarettes, including cigarettes in stamped and unstamped packages;

(6) the name, address, permit number, and tax identification number of the seller; [and]

(7) in the case of a distributor, copies of the customs certificates required by 19 U.S.C. Section 1681a(c), as amended, for all cigarettes imported into the United States to which the distributor has affixed a tax stamp; and

(8) any other information required by rules of the comptroller.

SECTION 4. Section 154.5025, Tax Code, is amended to read as follows:

Sec. 154.5025. AFFIXING STAMPS TO CERTAIN CIGARETTES. A person commits an offense if the person knowingly affixes stamps to cigarettes in violation of Section 154.0415.

SECTION 5. Subchapter D, Chapter 35, Business & Commerce Code, is amended by adding Section 35.49 to read as follows:

Sec. 35.49. OTHER REMEDIES. (a) A person who sells, distributes, or manufactures cigarettes and who sustains direct economic or commercial injury as a result of a violation of Section 154.0415, Tax Code, or Section 48.015, Penal Code, may bring an action in good faith for appropriate injunctive relief.

(b) The remedy provided by this section is in addition to any other remedy provided by law.

SECTION 6. Chapter 48, Penal Code, is amended by adding Section 48.015 to read as follows:

Sec. 48.015. PROHIBITIONS RELATING TO CERTAIN CIGARETTES. (a) A person may not acquire, hold, own, possess, or transport for sale or distribution in this state or import or cause to be imported into this state for sale or distribution in this state:

(1) cigarettes that do not comply with all applicable requirements imposed by or under federal law and implementing regulations; or

(2) cigarettes to which stamps may not be affixed under Section 154.0415, Tax Code, other than cigarettes lawfully imported or brought into the state for personal use and cigarettes lawfully sold or intended to be sold as duty-free merchandise by a duty-free sales enterprise in accordance with 19 U.S.C. Section 1555(b), as amended.

(b) A person who commits an act prohibited by Subsection (a), knowing or having reason to know that the person is doing so, is guilty of a Class A misdemeanor.

SECTION 7. (a) This Act takes effect September 1, 2001.

(b) Section 35.49, Business & Commerce Code, as added by this Act, applies only to a violation to which that section applies that occurs on or after the effective date of this Act. A violation that occurs before the effective date of this Act is governed by the law in effect on the date the violation occurs, and the former law is continued in effect for that purpose.

(c) Section 48.015, Penal Code, as added by this Act, applies only to an offense committed on or after the effective date of this Act. For purposes of this subsection, an offense is committed before the effective date of this Act if any element of the offense occurs before that date. An offense committed

before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

HB 2379 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Counts called up with senate amendments for consideration at this time,

HB 2379, A bill to be entitled An Act relating to the authority of certain development corporations to undertake water supply or conservation projects.

On motion of Representative Counts, the house concurred in the senate amendments to **HB 2379** by (Record 579): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbrank.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Capelo; Hilbert; Junell; Smithee.

Absent — Dukes; Green; Martinez Fischer; Maxey.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2379** (Senate Committee Printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended by adding Subsection (a-5) to read as follows:

(a-5) The ballot proposition at the election to adopt a sales and use tax under Subsection (d) of this section must clearly describe the project to be undertaken by the corporation if the project is described by Subsection (a)(2)(D) or (E) of this section.

HB 2383 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Allen called up with senate amendments for consideration at this time,

HB 2383, A bill to be entitled An Act relating to certain grounds for the denial of an application for, the refusal to renew, and the suspension of a license as a licensed chemical dependency counselor and for the restriction of a counselor intern.

On motion of Representative Allen, the house concurred in the senate amendments to **HB 2383**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2383**, in SECTION 7 of the bill, in proposed Section 504.255(a), Occupations Code, by striking Subdivision (2) of that subsection (senate committee printing page 2, lines 62 and 63), and substituting the following:

"(2) sufficient time, as determined by commission rule, has expired since the date of the conviction or placement."

HB 2397 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Chavez called up with senate amendments for consideration at this time,

HB 2397, A bill to be entitled An Act relating to a study and report concerning the compensation received by part-time and full-time faculty members at public institutions of higher education.

On motion of Representative Chavez, the house concurred in the senate amendments to **HB 2397**.

Senate Committee Substitute

CSHB 2397, A bill to be entitled An Act relating to a study and report concerning the compensation received by part-time and full-time faculty members at public institutions of higher education.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0816 to read as follows:

Sec. 61.0816. FACULTY COMPENSATION DISPARITY STUDY AND REPORT. (a) The board shall conduct a study and make findings and recommendations the board considers appropriate regarding any disparity between the salary and benefits received by part-time faculty members and the salary and benefits received by full-time faculty members at institutions of higher education.

(b) Not later than September 1, 2002, the board shall submit to the governor and to the presiding officer of each house of the legislature a written report summarizing the study, findings, and recommendations of the board

under Subsection (a). The information in the report shall be reported without identifying specific individuals.

(c) This section expires December 1, 2002.

SECTION 2. Not later than the 90th day after the effective date of this Act, the Texas Higher Education Coordinating Board shall adopt rules to implement Section 61.0816, Education Code, as added by this Act.

SECTION 3. This Act takes effect September 1, 2001.

HB 2403 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Walker called up with senate amendments for consideration at this time,

HB 2403, A bill to be entitled An Act relating to reporting requirements regarding certain clothes-washing machines.

On motion of Representative Walker, the house concurred in the senate amendments to **HB 2403**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2403** as follows:

(1) In SECTION 1 of the bill, in added Section 372.004(c), Health and Safety Code (House Engrossment page 1, lines 14 and 15), strike "Beginning in February 2003, the commission shall report to the legislature in January" and substitute "The commission shall report to the legislature not later than February 28".

(2) In SECTION 1 of the bill, in added Section 372.004(d), Health and Safety Code (House Engrossment page 2, lines 6 and 7), strike "by January 2003, and each January thereafter" and substitute "not later than January 31 of each year".

(3) Strike SECTION 2 of the bill and substitute the following:

SECTION 2. (a) This Act takes effect September 1, 2001.

(b) The Texas Natural Resource Conservation Commission shall submit to the legislature the initial report required by Section 372.004(c), Health and Safety Code, as added by this Act, in February 2003. Appropriate trade associations or other entities shall begin providing information to the commission as required by Section 372.004(d), Health and Safety Code, as added by this Act, in January 2003.

HB 2421 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative B. Turner called up with senate amendments for consideration at this time,

HB 2421, A bill to be entitled An Act relating to establishing a program to recruit rural medical students for service in rural communities.

On motion of Representative B. Turner, the house concurred in the senate amendments to **HB 2421**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2421** (committee printing) as follows:

(1) On page 1, strike lines 14-21, and substitute the following:

Sec. 106.251. DEFINITIONS. In this subchapter:

(1) "Rural community" means a rural area as defined by the center.

(2) "Medical school" has the meaning assigned by Section 61.501, Education Code.

(2) On page 1, lines 26 and 27, strike "develop a program to recruit students interested in studying medicine" and substitute "establish a process in consultation with the Texas Higher Education Coordinating Board for selecting a Texas medical school to recruit students".

(3) On page 1, line 28, strike "enroll in medical school and to".

(4) On page 1, line 30, between "The" and "center" insert "Texas medical school selected by the".

(5) On page 1, lines 35 and 36, strike "promote and sponsor rural electives in medical school" and substitute "establish a rural medicine".

**HB 2436 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Merritt called up with senate amendments for consideration at this time,

HB 2436, A bill to be entitled An Act relating to a requirement that the Bureau of Economic Geology of The University of Texas at Austin conduct a study of the East Texas Oil Field.

On motion of Representative Merritt, the house concurred in the senate amendments to **HB 2436**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2436** (Senate Committee Printing) by striking Section 3 of the bill and substituting the following:

SECTION 3. (a) The Bureau of Economic Geology of The University of Texas at Austin is required to conduct the study and make the reports required by this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the bureau may, but is not required to, implement this Act using other appropriations available for the purpose.

(b) The persons required to appoint the members of the East Texas Oil Field Advisory Committee created under this Act shall appoint the members only if the Bureau of Economic Geology of The University of Texas at Austin is required or chooses to implement this Act as provided by Subsection (a) of this section.

**HB 2439 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Goolsby called up with senate amendments for consideration at this time,

HB 2439, A bill to be entitled An Act relating to uses of balances in the inaugural fund.

On motion of Representative Goolsby, the house concurred in the senate amendments to **HB 2439**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2439** on page 1, strike line 22, and substitute the following therefor:

"support of public schools, public libraries, or other charitable causes at the discretion of".

**HB 2453 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Berman called up with senate amendments for consideration at this time,

HB 2453, A bill to be entitled An Act relating to conditions for issuance of certain revenue bonds by the Veterans' Land Board.

On motion of Representative Berman, the house concurred in the senate amendments to **HB 2453** by (Record 580): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbrank.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Capelo; Hilbert; Junell; Smithee.

Absent — Allen; Haggerty; Janek.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2453** by striking Section 1 and substituting a new Section 1 to read as follows:

SECTION 1. Section 164.007(f), Natural Resources Code, is amended to read as follows:

(f) Bonds issued under this chapter for a purpose other than buying back

or refunding general obligation bonds issued under Article III, Section 49-b, 49b-1, or 49b-2, of the Texas Constitution may not in the aggregate exceed \$1 billion.

HB 2484 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Wilson called up with senate amendments for consideration at this time,

HB 2484, A bill to be entitled An Act relating to the regulation of racing.

On motion of Representative Wilson, the house concurred in the senate amendments to **HB 2484**. (P. King recorded voting no)

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2484** by adding an appropriately numbered SECTION to read as follows:

SECTION _____. Article 11, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) is amended by adding Section 11.11 to read as follows:

Sec. 11.11. SIMULCASTING RESTRICTED TO DESIGNATED PREMISES. The commission shall not allow wagering on a simulcast horse or greyhound race at more than one location licensed under Section 6.02 and within an area defined by Section 6.02(b).

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 2484** as follows:

Strike SECTION 2 of the bill, and substitute the following:

"Section 11.011(e), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) The racetrack where the wager is made is responsible for reporting and remitting the state's share of the pari-mutuel pool. [If intrastate wagering pools are combined between tracks, the track where the race originates is responsible for the state's share of the pari-mutuel pool regardless of whether a shortage or error occurred at the originating track or receiving track.]"

Senate Amendment No. 3 (Senate Floor Amendment No. 3)

Amend **HB 2484** by adding a new appropriately numbered SECTION to read as follows:

SECTION _____. Section 3.021, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended by adding Subsections (e) and (f) to read as follows:

(e) Services or devices offered at racetracks to racetrack patrons pursuant to the Texas Lottery Act (Sec. 446.001 et seq., Government Code) or the Texas Bingo Act (Sec. 2001.001 et seq., Occupations Code) are subject to the exclusive administrative jurisdiction of the Texas Lottery Commission.

(f) Services or devices offered at racetracks to racetrack patrons for pari-mutuel wagering, entertainment or amusement purposes, including the use of a pari-mutuel ticket as a prize in any legal activity conducted at a racetrack, are subject to the exclusive administrative jurisdiction of the commission.

(g) The commission shall regulate all pari-mutuel events offered at a race track to racetrack patrons.

Senate Amendment No. 4 (Senate Floor Amendment No. 4)

Amend **HB 2484** by adding a new appropriately numbered SECTION to read as follows:

SECTION _____. Section 3.07(d), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) Medication or drug testing performed on a race animal under this Act shall be conducted by the Texas Veterinary Medical Diagnostic Laboratory or by a laboratory operated by or in conjunction with or by a private or public agency selected by the commission after consultation with the [on a yearly basis by competitive bidding submitted to the commission for final approval. The commission's decision shall be based on cost and integrity. The] Texas Veterinary Medical Diagnostic Laboratory [may aid the commission in its selection]. Medication or drug testing performed on a human under this Act shall be conducted by a laboratory approved by the commission. Charges for services performed under this section shall be forwarded to the commission for approval as included but are limited to expenses incurred for travel, lodging, testing, and processing of test results. The reasonable charges associated with medication or drug testing conducted under this Act shall be paid by the association that received the services. The commission shall adopt rules for the procedures for approving and paying laboratory charges under this section. The commission shall determine if the laboratory drug testing charges are [On the approval of the charges as] reasonable, in relation to industry standards [for testing charges], by periodically surveying the testing charges of comparable laboratories in the United States. The [the] commission shall forward a copy of the charges to the association that receives the services for immediate payment.

Senate Amendment No. 5 (Senate Floor Amendment No. 5)

Amend **HB 2484** by adding appropriately numbered SECTIONS to read as follows:

SECTION _____. Article 6, Texas Racing Act is amended by adding Section 6.0915 to read as follows:

Sec. 6.0915. CROSS-SPECIES SIMULCASTING. (a) To ensure cross-species simulcasting adequately supports and enhances the live races offered at the racetrack, a racetrack may offer a cross-species simulcast only pursuant to an agreement, approved by the commission, between the horsemen's organization, the state greyhound breed registry, and all racetracks desiring to offer cross-species simulcasting. The agreement shall contain provisions to address the percentage of revenue from the simulcast that will be allocated to horse purses, greyhound purses, and administrative costs. The commission may adopt rules specifying other matters to be addressed in the agreement. The rules may require the payment of any purse allocation to the commission or to one or more official breed registry for distribution among the various Texas racetracks.

(b) If the parties to the agreement described in Subsection (a) cannot reach an agreement by September 1, 2002, any party listed in Subsection (a) may request the commission to take jurisdiction over the matter and negotiate an agreement between the parties to provide for cross-species simulcasting at all racetracks desiring to offer cross-species simulcasting.

(c) An agreement under this section shall provide for an amount set by the official state greyhound breed registry, but not to exceed 15% of the amount set aside for greyhound purses under this section from each cross-species simulcast pool, to be paid to the registry.

(d) An agreement under this section shall provide for 0.37% of each cross-species simulcast pool to be paid to the state quarter horse breed registry for distribution as quarter horse purses at Texas horse racetracks.

(e) An agreement under this section shall provide for 0.37% of each cross-species simulcast pool to be paid to the state thoroughbred breed registry for distribution as thoroughbred purses at Texas horse racetracks.

(f) The commission shall adopt rules relating to the oversight, collection and distribution of the amounts allocated under Section 6.091 and this section.

(g) This section takes effect January 1, 2002.

SECTION _____. Sections 6.091(c)-(j) and 11.011(h)-(j) are repealed.

Senate Amendment No. 6 (Senate Floor Amendment No. 6)

Amend **HB 2484** by adding a new appropriately numbered SECTION to read as follows:

SECTION _____. Article 5, Texas Racing Act (Vernon's Texas Civil Statutes), is amended by adding Section 5.06 to read as follows:

Sec. 5.06. OCCUPATIONAL LICENSEES. (a) Any racetrack that conducts a seasonal live race meeting in which there is a period of at least six weeks between live meets must, at the completion of the live meet:

1. terminate the seasonal workforce within 10 days of the end of the live meet;

2. collect seasonal workforce licensee certificates or credentials issued by the commission; and

3. provide the commission with a list of all terminated licensees within 5 days of termination.

HB 2498 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Haggerty called up with senate amendments for consideration at this time,

HB 2498, A bill to be entitled An Act relating to certain cross-border health care plans offered by health maintenance organizations.

On motion of Representative Haggerty, the house concurred in the senate amendments to **HB 2498**.

Senate Committee Substitute

CSHB 2498, A bill to be entitled An Act relating to certain cross-border health care plans offered by health maintenance organizations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 1, Insurance Code, is amended by adding Chapter 20B to read as follows:

CHAPTER 20B. CROSS-BORDER HEALTH CARE PLAN

Art. 20B.01. SHORT TITLE. This chapter may be cited as the Cross-Border Health Care Plan Act.

Art. 20B.02. DEFINITIONS. In this chapter:

(1) "Basic health care services" means health care services that the commissioner determines an enrolled population might reasonably require in order to be maintained in good health, including any services required by the applicable laws of the United Mexican States.

(2) "Cross-border health care plan" means a health care plan that is offered or made available to the categories of persons described by Article 20B.03 of this code and that is provided through a health maintenance organization delivery network based exclusively on physicians, providers, or other health maintenance organizations located in the United Mexican States.

(3) "Emergency care" means health care services provided in a hospital emergency facility or comparable facility to evaluate and stabilize medical conditions of a recent onset and severity, including severe pain, that would lead a prudent layperson, possessing an average knowledge of medicine and health, to believe that the individual's condition, sickness, or injury is of such a nature that failure to get immediate medical care could result in:

(A) placing the patient's health in serious jeopardy;

(B) serious impairment to bodily functions;

(C) serious dysfunction of any bodily organ or part;

(D) serious disfigurement; or

(E) in the case of a pregnant woman, serious jeopardy to the health of the fetus.

(4) "Enrollee" means an individual who is enrolled in a health care plan, including covered dependents.

(5) "Health care plan" means a plan under which a person undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care services if a part of the plan consists of providing or arranging for health care services on a prepaid basis through insurance or otherwise, as distinguished from indemnification against the cost of the service.

(6) "Health care services" means services provided to an individual to prevent, alleviate, cure, or heal human illness or injury. The term includes:

(A) pharmaceutical services;

(B) medical, chiropractic, or dental care;

(C) hospitalization; and

(D) care or services incidental to the health care services described by Paragraphs (A)-(C).

(7) "Health maintenance organization" means a person or entity that arranges for or provides a health care plan to enrollees on a prepaid basis.

(8) "Health maintenance organization delivery network" means a health care delivery system in which a health maintenance organization arranges for health care services directly or indirectly through contracts and subcontracts with providers and physicians.

Art. 20B.03. ELIGIBILITY FOR COVERAGE. A cross-border health care plan may only be offered or made available to the following persons and their dependents:

(1) a citizen of the United Mexican States who works or resides within 62 miles of the border of this state and the United Mexican States; or

(2) a resident of the United Mexican States who works within 62 miles of the border of this state and the United Mexican States.

Art. 20B.04. COVERAGE OFFERED. (a) A health maintenance organization licensed to provide basic health care services under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code) may offer a cross-border health care plan to individuals or to small employers or large employers, as those terms are defined by Article 26.02 of this code. In arranging for or providing a cross-border health care plan, a health maintenance organization has all of the powers and authority granted under Section 6, Texas Health Maintenance Organization Act (Article 20A.06, Vernon's Texas Insurance Code).

(b) A cross-border health care plan may limit its service area to a geographic region within the United Mexican States and may limit the coverage of out-of-area health care services delivered in this state to emergency care services. The delivery of emergency care services in this state under the plan is subject to the requirements of Section 4(a)(16), Texas Health Maintenance Organization Act (Article 20A.04, Vernon's Texas Insurance Code).

(c) The delivery of health care services through the health maintenance organization delivery network located in the United Mexican States must be based on and determined by the prevailing community standards in the United Mexican States, and the licensing of physicians and providers is governed by the applicable laws of the United Mexican States. A physician or provider providing health care services through the delivery network is not required to be licensed in this state. The credentialing, peer review, and quality of care standards used by a health maintenance organization offering a cross-border health care plan is governed by the standards that apply in the United Mexican States.

(d) A cross-border health care plan may be made available to eligible employees of a small or large employer, and their dependents, only when chosen by the employer as an option among two or more health benefit plans, at least one of which provides coverage for health care services delivered in this state.

(e) A health maintenance organization that offers a cross-border health care plan must contract with sufficient providers and physicians to assure that all health care services for which coverage is provided will be reasonably available and accessible.

Art. 20B.05. APPLICABILITY OF TEXAS HEALTH MAINTENANCE ORGANIZATION ACT. (a) A cross-border health care plan must satisfy the requirements of Section 9, Texas Health Maintenance Organization Act (Article 20A.09, Vernon's Texas Insurance Code), except that the provisions relating to state continuation of coverage and conversion do not apply to a cross-border health care plan. A health maintenance organization shall file the form of its cross-border health care plan for information only with the commissioner, accompanied by a certification on its behalf that on best knowledge, information, and belief, the filed form complies in all respects with the applicable provisions of this code, the Texas Health Maintenance Organization Act, and the adopted rules and regulations that are applicable to the form.

(b) Sections 12, 12A, and 12B, Texas Health Maintenance Organization Act (Articles 20A.12, 20A.12A, and 20A.12B, Vernon's Texas Insurance Code), apply to a cross-border health care plan only to the extent that an enrollee

under the plan receives health care services delivered by a physician or provider located in this state.

(c) Section 26, Texas Health Maintenance Organization Act (Article 20A.26, Vernon's Texas Insurance Code), applies to a cross-border health care plan, except that Subsection (i)(3) of that section does not apply to a cross-border health care plan. Articles 21.07-6 and 21.58A, Insurance Code, do not apply to the activities of physicians, providers, and other persons doing business in the United Mexican States.

Art. 20B.06. RULES AND REGULATIONS. The commissioner may adopt reasonable rules and regulations to:

(1) prescribe the information to be provided to prospective and current group contract holders and enrollees; and

(2) govern communications with providers and physicians relating to the enrollee's medical condition or treatment options.

SECTION 2. This Act takes effect September 1, 2001, and applies only to a health care plan offered by a health maintenance organization on or after that date. A health care plan that is offered by a health maintenance organization before September 1, 2001, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 2498** by striking all below the enacting clause and substituting the following:

SECTION 1. LEGISLATIVE FINDINGS. (a) The legislature finds that it is in the best interest of the state to find a cost-effective manner of delivering health care services through affordable health care plans to citizens residing on both sides of the Texas-Mexico border.

(b) The legislature further finds that the provision of health care coverage in the border area is not conducive to preventive care or prenatal care, or to the provision of a medical home for binational families.

SECTION 2. INTERIM COMMITTEE. (a) An interim committee is established to study the provision of binational health benefit plan coverage. The interim committee is composed of seven members as follows:

(1) the commissioner of insurance;

(2) the commissioner of health and human services;

(3) one member of the Texas House of Representatives from a border community, appointed by the speaker of the house;

(4) one member of the Texas Senate from a border community, appointed by the lieutenant governor;

(5) one member who represents health maintenance organizations, appointed by the governor;

(6) one member who represents hospitals, appointed by the governor; and

(7) one member who is a medical practitioner, appointed by the governor.

(b) The committee members shall be appointed not later than August 1, 2001. The members of the house and senate who serve on the committee shall act as joint presiding officers of the committee.

SECTION 3. COMMITTEE DUTIES. The interim committee appointed under this Act shall hold hearings in the border areas of the state to:

- (1) determine the need for binational health benefit plan coverage;
- (2) assess the health care needs of the border area and how those needs can be served by various types of providers; and
- (3) assess the affordability, cost-effectiveness, economic impact, and improved health status achievable through binational health benefit plan coverage.

SECTION 4. COMMITTEE REPORT. Not later than October 1, 2002, the interim committee appointed under this Act shall issue a report of findings and recommendations for administrative action and legislation during the next session of the legislature. The report shall be filed with the governor, lieutenant governor, and the speaker of the house of representatives.

SECTION 5. EXPIRATION. This Act expires December 31, 2002.

SECTION 6. EFFECTIVE DATE. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

**HB 2509 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Danburg called up with senate amendments for consideration at this time,

HB 2509, A bill to be entitled An Act relating to certain election processes and procedures.

Representative Danburg moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2509**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2509**: Danburg, chair, Maxey, Madden, Sadler, and Gallego.

**HB 2510 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Chavez called up with senate amendments for consideration at this time,

HB 2510, A bill to be entitled An Act relating to the establishment of diabetes research and screening programs at certain institutions of higher education.

On motion of Representative Chavez, the house concurred in the senate amendments to **HB 2510** by (Record 581): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer; King, P.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbraneck.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Capelo; Hilbert; Junell; Smithee.

Absent — Corte; King, T.; Merritt; Pitts.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2510** in the following manner:

- 1) In the Senate committee report version, strike SECTION 2.
- 2) Renumber the following sections accordingly.

HB 2522 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Wilson called up with senate amendments for consideration at this time,

HB 2522, A bill to be entitled An Act relating to requiring the Texas Department of Transportation to establish and maintain a state airport in Central Texas.

On motion of Representative Wilson, the house concurred in the senate amendments to **HB 2522** by (Record 582): 138 Yeas, 0 Nays, 4 Present, not voting.

Yeas — Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Keel; King, P.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds;

Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbraneck.

Present, not voting — Mr. Speaker; Corte; Howard; Uher(C).

Absent, Excused — Capelo; Hilbert; Junell; Smithee.

Absent — Alexander; Dunnam; Keffer; King, T.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2522** by striking SECTION 1 of the bill and substituting the following:

SECTION 1. Subchapter B, Chapter 21, Transportation Code, is amended by adding section 21.069 to read as follows:

Sec. 21.069. STATE AIRPORT IN CENTRAL TEXAS. (a) The department, in consultation with the State Aircraft Pooling Board, shall establish a state airport in central Texas that is open to the general public.

(b) In determining an appropriate location for the airport, the department shall consider:

(1) the convenience, comfort, and accommodation of air traffic flying into and departing from the central Texas region, including persons traveling for business and commercial reasons, government officials, and tourists; and

(2) the safe operation of aircraft flying into and departing from the central Texas region.

(c) In determining an appropriate location for the airport, the department may not consider:

(1) any property in a municipality without the approval of the governing body of the municipality;

(2) any property outside of a municipality without the approval of the commissioners court of the county in which the property is located; or

(3) the property in Austin, Texas identified as Robert Mueller Airport.

(d) The commission may acquire by the exercise of eminent domain property that the commission considers necessary to enable the department to meet its responsibilities under this section.

(e) The department may only utilize federal matching funds, federal grants, in kind contributions, private sector funds, nonprofit grants and local government funding for the establishment of this facility.

(f) The department shall have all the powers necessary or appropriate to implement this section, including all the powers granted to a local government under Chapters 22, 23, and 25.

(g) Upon completion of the construction of the airport, the department shall contract with a private entity or a county or municipality for the long-term management, operation and maintenance of the facility. Such contract shall comply with all applicable Federal Aviation Agency regulations relating to the management, operation and maintenance of an airport.

HB 2531 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Gallego called up with senate amendments for consideration at this time,

HB 2531, A bill to be entitled An Act relating to tuition rates at public institutions of higher education.

On motion of Representative Gallego, the house concurred in the senate amendments to **HB 2531**.

Senate Committee Substitute

CSHB 2531, A bill to be entitled An Act relating to tuition and fees charged at public institutions of higher education.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 54.051(c), Education Code, is amended to read as follows:

(c) Unless a different rate is specified by this section, tuition for a resident student at a general academic teaching institution is \$50 ~~[the greater of:~~

~~(1) \$120 for each semester or 12-week summer session and \$60 for each six-week summer term; or~~

~~(2) \$40] per semester credit hour.~~

SECTION 2. Section 54.0512, Education Code is amended to read as follows:

Sec. 54.0512. INTERIM TUITION RATES. (a) Notwithstanding Section 54.051 ~~[of this code]~~, tuition for the applicable academic years described by this section is as provided by this section.

(b) Tuition for a resident student at a general academic teaching institution is ~~[the greater of \$120 for each semester or 12-week summer session and \$60 for each six-week summer term or]:~~

~~(1) [or the 1994-1995 academic year, \$28 per semester credit hour;~~

~~[(2) for the 1995-1996 academic year, \$30 per semester credit hour;~~

~~[(3) for the 1996-1997 academic year, \$32 per semester credit hour;~~

~~[(4) for the 1997-1998 academic year, \$34 per semester credit hour;~~

~~[(5) for the 1998-1999 academic year, \$36 per semester credit hour;~~

~~[(6) for the 1999-2000 academic year, \$38 per semester credit hour;~~

and

~~[(7)] for the 2000-2001 academic year, \$40 per semester credit hour;~~

~~(2) for the 2001-2002 academic year, \$42 per semester credit hour;~~

~~(3) for the 2002-2003 academic year, \$44 per semester credit hour;~~

~~(4) for the 2003-2004 academic year, \$46 per semester credit hour;~~

~~(5) for the 2004-2005 academic year, \$48 per semester credit hour;~~

and

~~(6) for the 2005-2006 academic year, \$50 per semester credit hour.~~

(c) ~~[Tuition for a nonresident student at a general academic teaching institution for the 1985-1986 and 1986-1987 academic years is \$120 per semester credit hour.~~

~~[(d) Tuition for a resident student enrolled in a program leading to an M.D. or D.O. degree is:~~

- ~~[(1) for the 1985-1986 academic year, \$1,219;~~
- ~~[(2) for the 1986-1987 academic year, \$2,400;~~
- ~~[(3) for the 1987-1988 academic year, \$3,600; and~~
- ~~[(4) for the 1988-1989 academic year, \$4,800.~~

~~[(e) Tuition for a resident student enrolled in a program leading to a D.D.S. degree is:~~

- ~~[(1) for the 1985-1986 academic year, \$900;~~
- ~~[(2) for the 1986-1987 academic year, \$1,600;~~
- ~~[(3) for the 1987-1988 academic year, \$2,500; and~~
- ~~[(4) for the 1988-1989 academic year, \$3,500.~~

~~[(f) Tuition for a resident student enrolled in a program leading to a D.V.M. degree is:~~

- ~~[(1) for the 1985-1986 academic year, \$800;~~
- ~~[(2) for the 1986-1987 academic year, \$1,200;~~
- ~~[(3) for the 1987-1988 academic year, \$2,400; and~~
- ~~[(4) for the 1988-1989 academic year, \$3,600.~~

~~[(g) Tuition for a resident student registered at a law school is:~~

- ~~[(1) for the 1985-1986 academic year, \$24 per semester credit hour;~~
- ~~[(2) for the 1986-1987 academic year, \$36 per semester credit hour;~~

and

- ~~[(3) for the 1987-1988 academic year, \$48 per semester credit hour.~~

~~[(h) Tuition for academic years not specifically covered by this section is at the rates provided by Section 54.051 [of this code].~~

~~(d) This section expires January 1, 2008 [2002].~~

SECTION 3. Section 54.0513(b), Education Code, is amended to read as follows:

(b) In addition to amounts that a governing board of an institution of higher education is authorized to charge as tuition under the other provisions of this chapter, the governing board is authorized to charge as tuition in an academic year an amount not to exceed the amount charged under Sections 54.051 or 54.0512, as applicable, in that academic year ~~[the following maximum amounts:~~

- ~~(1) \$34 per semester credit hour for the 1997-1998 academic year;~~
- ~~(2) \$36 per semester credit hour for the 1998-1999 academic year;~~
- ~~(3) \$38 per semester credit hour for the 1999-2000 academic year; and~~
- ~~(4) \$40 per semester credit hour for the 2000-2001 academic year and each academic year thereafter].~~

SECTION 4. Subchapter B, Chapter 54, Education Code, is amended by adding Section 54.069 to read as follows:

Sec. 54.069. BILLING AND NOTIFICATION FOR TUITION. For billing and catalogue purposes, each governing board shall accumulate all the tuition that it charges under this subchapter into one tuition charge.

SECTION 5. Section 56.053(a), Education Code, is amended to read as follows:

(a) The governing board of each institution shall adopt rules providing for the terms of the loan, subject to the following:

(1) the loan must be repaid over a period not to exceed 90 days for a loan made for a regular semester or long summer session or over a proportionately shorter period for loans made for a six-week summer session;

(2) the loan must be evidenced by a promissory note that bears interest at a rate of not more than five percent per year; and

(3) the maximum loan amount per student may not be less than an amount equal to the tuition and required fees for the courses in which the student is actually enrolling, unless the institution determines that a lower amount would be in the best interest of the student.

SECTION 6. This Act applies beginning with tuition charges imposed for the fall semester, 2001.

SECTION 7. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 2531**, page ____, line ____, by inserting the following new section and renumbering accordingly:

SECTION _____. Section 54.008, Education Code, is amended by amending Subsections (a) and (f) and adding Subsection (g) to read as follows.

(a) The tuition rates provided by Subchapter B of this chapter are minimum rates. Except as provided by Subsections [Subsection] (e), (f), and (g), the governing board of each institution of higher education shall set tuition for graduate programs for that institution at a rate that is at least equal to that prescribed by Subchapter B ~~[of this chapter]~~, but that is not more than twice the rate prescribed by Subchapter B ~~[of this chapter]~~. Between the maximum and minimum rates, the board may set the differential tuition among programs offered by an institution of higher education.

(f) The governing board of an institution of higher education shall set tuition for an undergraduate pharmacy program at the institution at a rate that is at least equal to the rate prescribed by Subchapter B ~~[of this chapter]~~ but not more than twice the rate prescribed by Subchapter B ~~[of this chapter]~~. The governing board of an institution of higher education shall set tuition for a graduate or professional pharmacy program at the institution at a rate that is at least equal to the rate prescribed by Subchapter B but not more than three times the rate prescribed by Subchapter B.

(g) The governing board of an institution of higher education shall set tuition for a law school at the institution at a rate that is at least equal to the rate prescribed by Subchapter B but not more than three times the rate prescribed by Subchapter B.

HB 2544 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Naishtat called up with senate amendments for consideration at this time,

HB 2544, A bill to be entitled An Act relating to the acquisition and disposition of land or another real property interest by a political subdivision.

On motion of Representative Naishtat, the house concurred in the senate amendments to **HB 2544**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2544** by striking SECTION 1 (Committee Printing page 1, lines 12-23) and SECTION 3 (Committee Printing page 1, lines 36-43) and renumbering the remaining SECTIONS accordingly.

**HB 2557 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative E. Jones called up with senate amendments for consideration at this time,

HB 2557, A bill to be entitled An Act relating to the payment of certain judgments.

On motion of Representative E. Jones, the house concurred in the senate amendments to **HB 2557**.

Senate Committee Substitute

CSHB 2557, A bill to be entitled An Act relating to the payment of certain judgments.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 31.008, Civil Practice and Remedies Code, is amended by amending Subsection (g) and adding Subsection (h) to read as follows:

(g) If the judgment debtor complies with Subsections (b) and (c) and the judgment creditor refuses to accept payment of the amount under the judgment or accepts payment under the judgment and refuses to execute a release of judgment, the court shall set the matter for hearing on a party's motion or on the court's own motion to determine whether or not a release should be filed. On notice and hearing the court may direct the judgment debtor to prepare and file a recordable release of the judgment with the clerk of the court if the court finds that:

(1) the amount under the judgment has been paid into the registry of the court; or

(2) the judgment creditor has accepted payment under the judgment and refused to execute a release of judgment.

(h) In this section:

(1) "Judgment creditor" means a party in whose favor a judgment has been rendered, whether a plaintiff, counterclaimant, cross-claimant, third party plaintiff, or other judgment creditor.

(2) "Judgment debtor" means a party against whom a judgment is rendered.

SECTION 2. This Act takes effect September 1, 2001, and applies only to the payment of any judgment on or after that date, without regard to whether the judgment was entered before, on, or after that date.

HB 2571 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative McReynolds called up with senate amendments for consideration at this time,

HB 2571, A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Angelina County Water Control and Improvement District No. 4; authorizing the imposition of taxes and the issuance of bonds and granting the power of eminent domain; providing a civil penalty.

On motion of Representative McReynolds, the house concurred in the senate amendments to **HB 2571** by (Record 583): 131 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Carter; Chavez; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Driver; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Seaman; Shields; Smith; Solis; Solomons; Talton; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; West; Williams; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Capelo; Hilbert; Junell; Smithee.

Absent — Callegari; Chisum; Deshotel; Dukes; Goodman; Krusee; Maxey; Puente; Salinas; Swinford; Telford; Walker; Wise.

STATEMENT OF VOTE

When Record No. 583 was taken, I was in the house but away from my desk. I would have voted yes.

Krusee

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2571**, Section 3.02 (On page 12, engrossed version) by adding new subsection as follows:

(c) In implementing this section, if the district adopts rules that apply to electric, gas and telecommunications facilities, pipes and lines, the rules must be consistent with and no more stringent than state or federal requirements.

HB 2575 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Goolsby called up with senate amendments for consideration at this time,

HB 2575, A bill to be entitled An Act relating to the total amount of student services fees that may be charged at certain institutions of higher education.

On motion of Representative Goolsby, the house concurred in the senate amendments to **HB 2575** by (Record 584): 125 Yeas, 10 Nays, 2 Present, not voting.

Yeas — Alexander; Averitt; Bailey; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Ellis; Farabee; Farrar; Gallego; Garcia; George; Geren; Giddings; Glaze; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Janek; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Villarreal; Walker; West; Williams; Wilson; Wise; Wolens; Woolley; Yarbrough; Zbranek.

Nays — Berman; Brown, B.; Brown, F.; Clark; Delisi; Elkins; Hunter; Hupp; Isett; Reyna, E.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Capelo; Hilbert; Junell; Smithee.

Absent — Allen; Callegari; Flores; Goodman; Hartnett; Krusee; Miller; Uresti; Wohlgemuth.

STATEMENTS OF VOTE

I was shown voting no on Record No. 584. I intended to vote yes.

Berman

I was shown voting no on Record No. 584. I intended to vote yes.

B. Brown

When Record No. 584 was taken, I was in the house but away from my desk. I would have voted yes.

Krusee

When Record No. 584 was taken, I was in the house but away from my desk. I would have voted yes.

Uresti

Senate Committee Substitute

CSHB 2575, A bill to be entitled An Act relating to the total amount of student services fees that may be charged at certain institutions of higher education.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 54.503(b), Education Code, is amended to read as follows:

(b) The governing board of an institution of higher education may charge and collect from students registered at the institution fees to cover the cost of student services. The fee or fees may be either voluntary or compulsory as determined by the governing board. The total of all compulsory student services fees collected from a student at an institution of higher education other than The University of Texas at Austin or a component institution of the University of Houston System for any one semester or summer session shall not exceed \$250 [~~\$150. If approved by a majority vote of those students participating in a general election called for that purpose, the total of all compulsory student services fees that may be collected from a student at The University of Texas at El Paso may be increased to an amount not to exceed \$250. Approval at the election of an increase in the total fees that may be collected from a student at The University of Texas at El Paso does not affect the application of Subsection (f) to an increase in the total fees actually charged from one year to the next~~]. All compulsory student services fees charged and collected under this section by the governing board of an institution of higher education, other than a public junior college, shall be assessed in proportion to the number of semester credit hours for which a student registers. No portion of the compulsory fees collected may be expended for parking facilities or services, except as related to providing shuttle bus services.

SECTION 2. Section 54.513(j), Education Code, is amended to read as follows:

(j) The total of all compulsory fees charged under this section to students for any semester or summer session may not exceed \$250 [~~\$150~~].

SECTION 3. The change in law made by this Act applies only to fees imposed for a semester or term that begins on or after the effective date of this Act.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend the Ogden amendment to **CSHB 2575** as follows:

1. On page 1, lines 9 through 14, amend subsection (f) as follows:

(f) ~~If, in an academic year, the total compulsory fee charged under this section is more than 150 dollars, 10 percent higher than the compulsory fee charged for the previous academic year the increase does not take effect unless the increase is approved by a majority vote of the students voting in an election held for that purpose or by a majority vote of the student government at the institution. In subsequent years, an election authorizing a fee increase must~~

be held before the fee can be increased by more than 10 percent of the fee approved at the last student election.

2. On page 1, lines 1 through 25, and page 2, line 1, amend subsection (i) as follows:

(i) ~~If, in an academic year, the total compulsory fee fees charged under this section is are more than 150 dollars, 10 percent higher than the previous year's compulsory fees,~~ the increase does not take effect unless the increase is approved by a majority vote of the students voting in an election held for that purpose or by a majority vote of the duly elected student government. In subsequent years, an election authorizing a fee increase must be held before the fee can be increased by more than 10 percent of the fee approved at the last student election.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Conference Committee on **SB 2**, 1:45 p.m. instead of 1:00 p.m. today, E1.028.

HB 2585 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Chavez called up with senate amendments for consideration at this time,

HB 2585, A bill to be entitled An Act relating to motorcycle operator and passenger safety.

Representative Chavez moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2585**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2585**: Chavez, chair, B. Turner, Keel, Villarreal, and G. Lewis.

HB 2600 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Brimer called up with senate amendments for consideration at this time,

HB 2600, A bill to be entitled An Act relating to the provision of workers' compensation benefits and to the operation of the workers' compensation insurance system; providing penalties.

On motion of Representative Brimer, the house concurred in the senate amendments to **HB 2600** by (Record 585): 134 Yeas, 8 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Clark;

Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Keel; King, P.; King, T.; Kitchen; Kolkhorst; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Rangel; Raymond; Reyna, A.; Ritter; Sadler; Salinas; Seaman; Smith; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Nays — Christian; Garcia; Green; Hartnett; Keffer; Ramsay; Reyna, E.; Shields.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Capelo; Hilbert; Junell; Smithee.

Absent — Howard; Krusee.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 585. I intended to vote no.

Hilderbran

I was shown voting yes on Record No. 585. I intended to vote no.

Isett

I was shown voting no on Record No. 585. I intended to vote present, not voting.

Keffer

When Record No. 585 was taken, I was in the house but away from my desk. I would have voted yes.

Krusee

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2600** by striking all below the enacting clause and substituting the following:

ARTICLE 1. APPROVED DOCTORS; MEDICAL REVIEW

SECTION 1.01. Subchapter B, Chapter 408, Labor Code, is amended by amending Section 408.023 and adding Section 408.0231 to read as follows:

Sec. 408.023. LIST OF APPROVED DOCTORS; DUTIES OF TREATING DOCTORS. (a) The commission shall develop a list of doctors licensed in this state who are approved to provide health care services under this subtitle. Each doctor licensed in this state on September 1, 2001

~~[January 1, 1993]~~, is eligible to be included on the commission's list of approved doctors ~~if the doctor:~~

(1) registers with the commission in the manner prescribed by commission rules; and

(2) complies with the requirements adopted by the commission under this section.

(b) The commission by rule shall establish reasonable requirements for doctors and health care providers financially related to those doctors regarding training, impairment rating testing, and disclosure of financial interests as required by Section 413.041, and for monitoring of those doctors and health care providers as provided by Sections 408.0231 and 413.0512. The commission by rule shall provide a reasonable period, not to exceed 18 months after the adoption of rules under this section, for doctors to comply with the registration and training requirements of this subchapter. Except as otherwise provided by this section, the requirements under this subsection apply to doctors and other health care providers who:

(1) provide health care services as treating doctors;

(2) provide health care services as authorized by this chapter;

(3) perform medical peer review under this subtitle;

(4) perform utilization review of medical benefits provided under this subtitle; or

(5) provide health care services on referral from a treating doctor, as provided by commission rule.

(c) The commission shall issue to a doctor who is approved by the commission a certificate of registration. In determining whether to issue a certificate of registration, the commission may consider and condition its approval on any practice restrictions applicable to the applicant that are relevant to services provided under this subtitle. The commission may also consider the practice restrictions of an applicant when determining appropriate sanctions under Section 408.0231.

(d) A certificate of registration issued under this section is valid, unless revoked, suspended, or revised, for the period provided by commission rule and may be renewed on application to the commission. The commission shall provide notice to each doctor on the approved doctor list of the pending expiration of the doctor's certificate of registration not later than the 60th day before the date of expiration of the certificate [unless subsequently deleted and not reinstated. The name of a doctor shall be placed on the list of approved doctors when that doctor becomes licensed in this state].

(e) Notwithstanding other provisions of this section, a [A] doctor not licensed in this state but licensed in another state or jurisdiction who treats employees or performs utilization review of health care for an insurance carrier may apply for a certificate of registration under this section [to the commission] to be included on the commission's list of approved doctors.

(f) Except in an emergency or for immediate post-injury medical care as defined by commission rule, or as provided by Subsection (h) or (i), each doctor who performs functions under this subtitle, including examinations under this chapter, must hold a certificate of registration and be on the list of approved doctors in order to perform services or receive payment for those services.

(g) The commission by rule shall modify registration and training requirements for doctors who infrequently provide health care, who perform utilization review or peer review functions for insurance carriers, or who participate in regional networks established under this subchapter, as necessary to ensure that those doctors are informed of the regulations that affect health care benefit delivery under this subtitle.

(h) Notwithstanding Section 4(h), Article 21.58A, Insurance Code, a utilization review agent that uses doctors to perform reviews of health care services provided under this subtitle may use doctors licensed by another state to perform the reviews, but the reviews must be performed under the direction of a doctor licensed to practice in this state.

(i) The commission may grant exceptions to the requirement imposed under Subsection (f) as necessary to ensure that:

(1) employees have access to health care; and

(2) insurance carriers have access to evaluations of an employee's health care and income benefit eligibility as provided by this subtitle.

(j) The injured employee's treating doctor is responsible for the efficient management of medical care as required by Section 408.025(c) and commission rules. The commission shall collect information regarding:

(1) return-to-work outcomes;

(2) patient satisfaction; and

(3) cost and utilization of health care provided or authorized by a treating doctor on the list of approved doctors.

(k) The commission may adopt rules to define the role of the treating doctor and to specify outcome information to be collected for a treating doctor.

Sec. 408.0231. MAINTENANCE OF LIST OF APPROVED DOCTORS; SANCTIONS AND PRIVILEGES RELATING TO HEALTH CARE. (a) The executive director shall delete from the list of approved doctors a doctor:

(1) who fails to register with the commission as provided by this chapter and commission rules;

(2) who is deceased;

(3) whose license to practice in this state is revoked, suspended, or not renewed by the appropriate licensing authority; or

(4) who requests to be removed from the list.

(b) The commission by rule shall establish criteria for:

(1) deleting or suspending a doctor from the list of approved doctors;

(2) imposing sanctions on a doctor or an insurance carrier as provided by this section;

(3) monitoring of utilization review agents, as provided by a memorandum of understanding between the commission and the Texas Department of Insurance; and

(4) authorizing increased or reduced utilization review and preauthorization controls on a doctor.

(c) Rules adopted under Subsection (b) are in addition to, and do not affect, the rules adopted under Section 415.023(b). The criteria for deleting a doctor from the list or for recommending or imposing sanctions may include anything the commission considers relevant, including:

(1) a sanction [~~sanctions~~] of the doctor by the commission for a violation [~~violations~~] of Chapter 413 or Chapter 415;

- (2) a sanction [~~sanctions~~] by the Medicare or Medicaid program for:
- (A) substandard medical care;
 - (B) overcharging; [~~or~~]
 - (C) overutilization of medical services; or
 - (D) any other substantive noncompliance with requirements of those programs regarding professional practice or billing;
- (3) evidence from the commission's medical records that the applicable insurance carrier's utilization review practices or the doctor's charges, fees, diagnoses, [~~or~~] treatments, evaluations, or impairment ratings are substantially different from those the commission finds to be fair and reasonable based on either a single determination or a pattern of practice; [~~and~~]
- (4) a suspension or other relevant practice restriction of the doctor's license by an [~~the~~] appropriate licensing authority;
- (5) professional failure to practice medicine or provide health care, including chiropractic care, in an acceptable manner consistent with the public health, safety, and welfare;
- (6) findings of fact and conclusions of law made by a court, an administrative law judge of the State Office of Administrative Hearings, or a licensing or regulatory authority; or
- (7) a criminal conviction.
- (d) [~~the~~] The commission by rule shall establish procedures under which [~~for~~] a doctor may [~~to~~] apply for:
- (1) reinstatement to the list of approved doctors; or
 - (2) restoration of doctor practice privileges removed by the commission based on sanctions imposed under this section.
- (e) The commission shall act on a recommendation by the medical advisor selected under Section 413.0511 and, after notice and the opportunity for a hearing, may impose sanctions under this section on a doctor or an insurance carrier or may recommend action regarding a utilization review agent. The commission and the Texas Department of Insurance shall enter into a memorandum of understanding to coordinate the regulation of insurance carriers and utilization review agents as necessary to ensure:
- (1) compliance with applicable regulations; and
 - (2) that appropriate health care decisions are reached under this subtitle and under Article 21.58A, Insurance Code.
- (f) The sanctions the commission may recommend or impose under this section include:
- (1) reduction of allowable reimbursement;
 - (2) mandatory preauthorization of all or certain health care services;
 - (3) required peer review monitoring, reporting, and audit;
 - (4) deletion or suspension from the approved doctor list and the designated doctor list;
 - (5) restrictions on appointment under this chapter;
 - (6) conditions or restrictions on an insurance carrier regarding actions by insurance carriers under this subtitle in accordance with the memorandum of understanding adopted between the commission and the Texas Department of Insurance regarding Article 21.58A, Insurance Code; and
 - (7) mandatory participation in training classes or other courses as established or certified by the commission.

SECTION 1.02. Subchapter E, Chapter 413, Labor Code, is amended by amending Section 413.051 and adding Sections 413.0511, 413.0512, and 413.0513 to read as follows:

Sec. 413.051. CONTRACTS WITH REVIEW ORGANIZATIONS AND HEALTH CARE PROVIDERS. (a) The commission may contract with a health care provider, health care provider professional review organization, or other entity to develop, maintain, or review medical policies or fee guidelines or to review compliance with the medical policies or fee guidelines.

(b) For purposes of review or resolution of a dispute as to compliance with the medical policies or fee guidelines, the commission may contract [~~only~~] with a health care provider, health care provider professional review organization, or other entity that includes in the review process health care practitioners who are licensed in the category under review and are of the same field or specialty as the category under review.

(c) The commission may contract with a health care provider, health care provider professional review organization, or other entity for medical consultant services, including:

- (1) independent medical examinations;
- (2) medical case reviews; or
- (3) establishment of medical policies and fee guidelines.

(d) The commission shall establish standards for contracts under this section.

(e) For purposes of this section, "health care provider professional review organization" includes an independent review organization.

Sec. 413.0511. MEDICAL ADVISOR. (a) The commission shall employ or contract with a medical advisor, who must be a doctor as that term is defined by Section 401.011.

(b) The medical advisor shall make recommendations regarding the adoption of rules to:

(1) develop, maintain, and review guidelines as provided by Section 413.011, including rules regarding impairment ratings;

(2) review compliance with those guidelines;

(3) regulate or perform other acts related to medical benefits as required by the commission;

(4) impose sanctions or delete doctors from the commission's list of approved doctors under Section 408.023 for:

(A) any reason described by Section 408.0231; or

(B) noncompliance with commission rules;

(5) impose conditions or restrictions as authorized by Section 408.0231(f);

(6) receive, and share with the medical quality review panel established under Section 413.0512, confidential information from the Texas State Board of Medical Examiners, the Texas Board of Chiropractic Examiners, or other occupational licensing boards regarding disciplinary actions imposed on a physician, chiropractor, or other type of doctor who applies for registration or is registered with the commission on the list of approved doctors; and

(7) determine minimal modifications to the reimbursement methodology and model used by the Medicare system as necessary to meet occupational injury requirements.

Sec. 413.0512. MEDICAL QUALITY REVIEW PANEL. (a) The medical advisor shall establish a medical quality review panel of health care providers to assist the medical advisor in performing the duties required under Section 413.0511. The panel is independent of the medical advisory committee created under Section 413.005 and is not subject to Chapter 2110, Government Code.

(b) The Texas State Board of Medical Examiners and the Texas Board of Chiropractic Examiners, with input from their respective professional associations, shall develop lists of physicians and chiropractors licensed by those agencies who have demonstrated experience in workers' compensation or utilization review. The medical advisor shall consider appointing some of the members of the medical quality review panel from the names on those lists. The medical advisor shall also consider nominations for the panel made by labor, business, and insurance organizations.

(c) The medical quality review panel shall recommend to the medical advisor:

(1) appropriate action regarding doctors, other health care providers, insurance carriers, and utilization review agents; and

(2) the addition or deletion of doctors from the list of approved doctors under Section 408.023 or the list of designated doctors established under Section 408.122.

(d) A person who serves on the medical quality review panel is not liable in a civil action for an act performed in good faith as a member of the panel and is entitled to the same protections afforded a commission member under Section 402.010.

(e) The actions of a person serving on the medical quality review panel do not constitute utilization review and are not subject to Article 21.58A, Insurance Code.

Sec. 413.0513. CONFIDENTIALITY REQUIREMENTS. (a) Information maintained by or on behalf of the commission under Section 413.0511 or 413.0512, and that is confidential under law, may not be disclosed under Section 413.0511 or 413.0512 except:

(1) in a criminal proceeding;

(2) in a hearing conducted by or on behalf of the commission;

(3) in a hearing conducted by another licensing or regulatory authority, as provided in the interagency agreement; or

(4) on a finding of good cause in an administrative or judicial proceeding involving the enforcement of this subtitle or in a disciplinary action under this subtitle.

(b) Confidential information developed by or on behalf of the commission under Section 413.0512 is not subject to discovery or court subpoena in any action other than:

(1) an action to enforce this subtitle brought by the commission, an appropriate licensing or regulatory agency, or an appropriate enforcement authority; or

(2) a criminal proceeding.

SECTION 1.03. (a) The Texas Workers' Compensation Commission shall adopt rules as required by Chapter 408, Labor Code, as amended by this article, not later than February 1, 2002.

(b) A doctor is not required to hold a certificate of registration issued under Section 408.023, Labor Code, as amended by this article, to perform medical services under Subtitle A, Title 5, Labor Code, before the date provided by commission rules adopted to implement that section.

ARTICLE 2. MEDICAL NETWORK PARTICIPATION OPTION

SECTION 2.01. Subchapter B, Chapter 408, Labor Code, is amended by adding Sections 408.0221, 408.0222, and 408.0223 to read as follows:

Sec. 408.0221. REGIONAL HEALTH CARE DELIVERY NETWORKS; ADVISORY COMMITTEE. (a) In this section:

(1) "Advisory committee" means the Health Care Network Advisory Committee.

(2) "Regional network" means a regional workers' compensation health care delivery network established by the commission under this section.

(b) The regional networks established under this section shall be fee-for-service networks designed to improve the quality and reduce the cost of health care, with active health care management and monitoring and a full range of health care services under contract as considered feasible under the feasibility study required under Subsection (d).

(c) The Health Care Network Advisory Committee is established to advise the commission on the implementation of this section and Section 408.0222. Members of the advisory committee are appointed by the governor for staggered two-year terms, with the membership as follows:

(1) three employee representatives recommended by a recognized statewide labor federation;

(2) three employer representatives;

(3) three ex officio insurance carrier representatives, with one member representing state agencies, one member representing the Texas Workers' Compensation Insurance Fund, and one member representing a voluntary market insurance carrier;

(4) three ex officio health care provider representatives; and

(5) the commission's medical advisor, who shall serve as chair of the advisory committee.

(d) The commission, on behalf of the advisory committee established under this section, shall establish and, through competitive procurement, contract with regional networks for the provision of health care under this subtitle. The commission shall, through competitive procurement, contract with one or more entities to determine the feasibility of, develop, and evaluate the regional networks established under this section. Those entities shall also recommend to the advisory committee appropriate network standards and application requirements and assist the advisory committee during the procurement process.

(e) The advisory committee shall make recommendations to the commission regarding:

(1) the development of the standards by which health care services are provided through regional networks;

(2) regional network application requirements and fees;

(3) contract proposals;

(4) the feasibility of establishing one or more regional networks using a phased implementation and evaluation process;

(5) the use of consultants as necessary to assist the commission in the procurement of regional network contracts; and

(6) the selection of administrators to build and manage the regional networks and to report on their progress.

(f) The advisory committee shall gather information from other entities, including the Research and Oversight Council on Workers' Compensation, the Texas Health Care Information Council, the Texas Department of Insurance, the Texas Department of Health, and the Employees Retirement System of Texas.

(g) The standards adopted for preferred provider networks under Article 3.70-3C, Insurance Code, as added by Chapter 1024, Acts of the 75th Legislature, Regular Session, 1997, apply as minimum standards for regional health care delivery networks created under this section and are adopted by reference in this section except to the extent they are inconsistent with this subtitle. The advisory committee may also recommend additional standards, including standards that require:

(1) for each geographic region, access to an adequate number of health care providers and treating doctors in each appropriate health care discipline and the professional specialties within those disciplines and a viable network through:

(A) the use of economic profiling as described by Article 3.70-3C, Insurance Code, as added by Chapter 1024, Acts of the 75th Legislature, Regular Session, 1997; and

(B) limitations on the number of providers, as provided by that article;

(2) the ability of an employee to receive treatment by a regional network provider within a reasonable amount of time of the regional network's knowledge of the need or request for treatment and within a reasonable travel distance for the employee;

(3) a reasonable effort by the regional network to attract health care providers who reflect the ethnic and cultural background of the regional employee population;

(4) the availability of board-certified occupational medicine specialists to provide expertise on disability management and prevention and treatment of occupational injuries and illnesses;

(5) accreditation of the regional networks or a commitment to seek accreditation from a nationally recognized organization such as the American Accreditation Health Care Commission or the National Committee for Quality Assurance;

(6) the use of strict credentialing criteria by regional networks in the selection and dereliction of its health care providers, including verification that the provider:

(A) is on the commission's list of approved doctors, if the provider is required to be on that list;

(B) has not, at the time of selection or dereliction, been sanctioned or made subject to additional utilization review requirements by the commission;

(C) is not, at the time of selection or dereliction, subject to

sanctions or substantive practice restrictions imposed by the provider's licensing authority;

(D) has or is able to obtain practice privileges, if required, at a participating hospital; and

(E) is covered by professional liability insurance coverage as required by the regional network contract;

(7) satisfactory evidence of the regional network's ability to comply with any financial requirements and ensure delivery of services;

(8) compliance with ongoing training and educational requirements established by the commission;

(9) the use of nationally recognized, scientifically valid, and outcome-based treatment standards as guidelines for health care;

(10) disclosure of the availability of interpreter services as appropriate for the evaluation and treatment of employees;

(11) timely and accurate reporting of data to appropriately manage and determine the effectiveness of the regional network in reducing medical costs and ensuring quality of care;

(12) a process for reconsideration of medical necessity denials and dispute resolution within the regional network; and

(13) a process for reviewing requests for a change in treating doctors made under Section 408.0222(s).

(h) The advisory committee and the Research and Oversight Council on Workers' Compensation shall develop evaluation standards and specifications as necessary to implement a regional network report card. The commission shall ensure that the report card is published and available for inspection. The commission may procure services as necessary to produce the report card. The report card, at a minimum, must be based on contracted reviews and must include a risk-adjusted evaluation of:

(1) employee access to care;

(2) coordination of care and return to work;

(3) communication among system participants;

(4) return-to-work outcomes;

(5) health-related outcomes;

(6) employee, health care provider, employer, and insurance carrier satisfaction;

(7) disability and re-injury prevention;

(8) appropriate clinical care;

(9) health care costs;

(10) utilization of health care; and

(11) statistical outcomes of medical dispute resolution provided by independent review organizations.

(i) The regional network administrators shall report quarterly to the commission and the advisory committee on the progress of implementing the regional networks and shall submit consolidated annual reports. The Research and Oversight Council on Workers' Compensation shall report to the legislature by January 1 of each odd-numbered year on the status of the implementation of regional networks under this section.

(j) The commission shall ensure that regional network contracts provide

that insurance carriers have reasonable rights to conduct audits under this subsection. Insurance carriers participating in the regional network shall be allowed the opportunity for consolidated audits of the regional networks.

(k) The cost of assessing the feasibility of, developing, and evaluating the regional networks created under this section shall be funded through an assessment on the subsequent injury fund established under Section 403.006. This cost may not exceed a total of \$1.5 million for the regional networks. The cost of ongoing regional network administration and management services shall be included in the fees for health care services paid by insurance carriers participating in the regional network.

Sec. 408.0222. PARTICIPATION IN REGIONAL NETWORK; SELECTION OF DOCTOR WITHIN REGIONAL NETWORK; BENEFIT INCENTIVES. (a) An insurance carrier or a self-insurer certified to provide workers' compensation coverage in this state may elect to participate or not participate, by contract, in a regional network established under Section 408.0221. A public employer covered under Subtitle C of this title, other than an employer covered under Chapter 504, is required to participate in a regional network established under Section 408.0221. An insurance carrier who elects to participate in regional networks agrees to abide by the terms of the regional network contracts between the commission and the regional networks.

(b) An insurance carrier may limit its election to participate in a regional network established under Section 408.0221 to a particular employer or a particular region of this state. This subsection expires January 1, 2006.

(c) A health care provider participating in a regional network established under Section 408.0221 may perform only those procedures that are within the scope of the practice for which the health care provider is licensed.

(d) An employee may elect to participate or not participate in a regional network established under Section 408.0221. Only an employee covered by an insurance carrier who has elected to participate in a regional network established under Section 408.0221 may elect to participate in that regional network. An eligible employee may elect to participate or not participate in the regional network for each compensable injury sustained by the employee. Except as provided by this section, the employee's election to participate in the network is effective for all medical care related to that injury. The advisory committee shall make recommendations and the commission, by rule, shall establish:

(1) the form and manner by which an employee:

(A) receives notice of the employee's rights; or

(B) documents the employee's election or rescission of a prior

election;

(2) the timing and recovery of a payment of enhanced benefits; and

(3) other related issues.

(e) Except as provided by Subsection (f), an employee shall make the election described by this section during an employer-designated enrollment period or at the time of employment. An employee who has elected to participate in the network may rescind that election at any time before the earlier of:

(1) the date on which the employee begins to receive enhanced income benefits under Subsection (m); or

(2) the 14th day after the date on which the employee receives health care from a network health care provider.

(f) An employee may elect to participate in a regional network established under Section 408.0221 at any time with the insurance carrier's agreement. An employee is not bound by an election to participate in a regional network made under Subsection (d) or this subsection if:

(1) the insurance carrier waives the election;

(2) the commission invalidates the election based on a determination of coercion;

(3) the employee relocates to an area outside of the regional network's service area, and the regional network is not able to identify alternate network providers to provide health care services reasonable for the employee's medical condition; or

(4) notwithstanding Subsection (n), the commission sets aside the employee's election based on a finding that:

(A) the worker was bound by an election to participate in the network;

(B) the carrier disputes the compensability of the employee's injury; and

(C) network health care providers are unwilling to provide health care to the employee pending the resolution of the dispute.

(g) An insurance carrier who elects to participate in a regional network established under Section 408.0221 shall provide each employer who obtains coverage through the insurance carrier with adequate information about the regional network to share with the employer's employees. Before an employee makes an election under this section to participate in a regional network, the employer shall provide the employee with:

(1) a complete, plain-language description of the regional network's services, restrictions, and benefits, including a description of the enhanced income benefits that may be due; and

(2) access to the most recent:

(A) list of doctors available through the regional network; and

(B) regional network report card developed under Section 408.0221.

(h) An employer shall not discharge, subject to disciplinary action, or take an adverse employment action against an employee who elects not to participate in a regional network created under Section 408.0221 if the employer's action would not have occurred in the absence of the employee's election not to participate.

(i) An employee may bring suit against an employer for violation of Subsection (h) if:

(1) the employee gives written notice of intent to bring suit to the employer within 60 days of the alleged violation; and

(2) the employer does not reinstate the employee and pay actual wages lost and reasonable attorney's fees incurred due to the employer's action within 60 days of notification of the employee's intent to bring suit.

(j) The employee must bring suit for an employer's violation of

Subsection (h) within 120 days of the alleged violation. A suit under this section may be brought in the county in which:

- (1) the plaintiff resides;
- (2) the plaintiff was employed; or
- (3) the defendant's primary place of business is located.

(k) If the employee prevails in an action under Subsection (i), the employee may recover:

- (1) lost wages;
- (2) reinstatement of front pay as equitable relief in lieu of reinstatement;
- (3) reasonable attorney's fees; and
- (4) court costs.

(l) A suit under this section is the exclusive remedy for violation of Subsection (h), and the provisions of Chapter 451 do not apply to such a violation. Parties may not maintain an action under Rule 42, Texas Rules of Civil Procedure.

(m) An employee who elects to participate in a regional network created under Section 408.0221 shall receive:

(1) notwithstanding Section 408.082(c), income benefits from the date disability begins if the disability lasts two weeks or longer; and

(2) notwithstanding Section 408.061, an increased maximum weekly benefit of up to 150 percent of the state average weekly wage for temporary income benefits.

(n) Except for emergency care, or as otherwise provided by this section, an employee who elects to participate in a regional network shall receive medical treatment, including referrals, from health care providers within the regional network. An employee or an employee's treating doctor may use a health care provider outside of the regional network with the approval of the regional network for good cause consistent with the regional network contract. If medically necessary services are not available through regional network health care providers, the regional network must, on the request of a regional network health care provider, within a reasonable time allow a referral to a nonregional network health care provider and shall fully reimburse the nonregional network physician or provider at the rate provided by the commission fee guidelines or an agreed rate. For purposes of this subsection, "emergency care" has the meaning assigned by Section 2(g), Texas Health Maintenance Organization Act (Article 20A.02, Vernon's Texas Insurance Code).

(o) A health care provider who participates in a regional network created under Section 408.0221 shall be reimbursed and be subject to utilization review as provided by the regional network contract. The insurance carrier is responsible for payment of regional network providers as provided by the contract with the regional network. A non-network provider who does not obtain the approval of the regional network to provide services may not be reimbursed by the insurance carrier, unless the provider requested and received verification from the insurance carrier that the employee was not bound by a network election under Subsection (e).

(p) To resolve an issue regarding the necessity or the appropriateness of

care, or referrals to nonregional network physicians or providers, an employee or an employee's treating doctor may request a review by an independent review organization under Section 413.031(d).

(q) An employee who elects to participate in a regional network established under Section 408.0221 shall select an initial treating doctor within the regional network as provided by the regional network contract. An employee who requests to change treating doctors within the regional network is not subject to Section 408.022. At the sole discretion of the regional network, an employee may select a treating doctor outside of the regional network if:

(1) the employee has a preexisting relationship with a doctor who maintains the employee's medical records and has a documented history of treatment before the date of injury; and

(2) that doctor agrees in writing to abide by the rules, terms, and conditions of the regional network contract, including an agreement to refer the employee within the regional network for services available through the regional network.

(r) An employee is subject to the selection of doctor, change of doctor, and other medical benefit and income benefit requirements established under this chapter and Chapter 413 if an employee:

(1) elects not to participate in a regional network established under Section 408.0221; or

(2) is employed by an employer for whom the insurance carrier has not elected to participate in a regional network established under Section 408.0221.

(s) An employee may change treating doctors within the regional network established under Section 408.0221 in which the employee is participating in accordance with the regional network contract and is entitled to:

(1) make one change from the initial treating doctor to an alternate treating doctor within the regional network unless the change is for the purpose of securing a new impairment rating or new determination of maximum medical improvement; and

(2) request additional changes of the treating doctor in the manner provided by the regional network contract.

(t) An employee or insurance carrier may request that the commission order an examination under Section 408.0041 if an employee has received conflicting impairment ratings or determinations of maximum medical improvement from more than one treating doctor.

(u) For purposes of this section, the following is not a selection of an alternate doctor in a regional network established under Section 408.0221:

(1) a referral made by the doctor chosen by the employee if the referral is medically reasonable and necessary;

(2) the receipt of services ancillary to surgery;

(3) the obtaining of a second opinion only on the appropriateness of the diagnosis or treatment;

(4) the selection of a doctor because the original doctor:

(A) dies;

(B) retires; or

(C) becomes unavailable or unable to provide medical care to the employee; or

(5) a change of doctor required because of a change of residence by the employee.

Sec. 408.0223. INSURANCE CARRIER NETWORKS. (a) In this section, "insurance carrier network" means a voluntary workers' compensation health care delivery network established by an insurance carrier. The term does not include a regional network established under Section 408.0221.

(b) This subtitle does not prohibit an insurance carrier, whether doing business as an individual carrier or as a group, from participating in or maintaining voluntary insurance carrier networks if those voluntary insurance carrier networks allow selection of doctors as provided by Section 408.022.

(c) This subtitle does not prohibit an insurance carrier from concurrently participating in an insurance carrier network and a regional network established under Section 408.0221.

SECTION 2.02. (a) The Texas Workers' Compensation Commission shall adopt rules as required by Chapter 408, Labor Code, as amended by this article, not later than October 1, 2002.

(b) The Texas Workers' Compensation Commission shall convene the first meeting of the Health Care Network Advisory Committee established under Section 408.0221, Labor Code, as added by this article, not later than October 1, 2001.

(c) Unless determined to be unfeasible, the Texas Workers' Compensation Commission shall contract for regional workers' compensation health care delivery networks under Section 408.0221, Labor Code, as added by this article, not later than December 31, 2002.

(d) Section 408.0222, Labor Code, as added by this article, as that section affects workers' compensation benefits an employee may receive for participating in a regional network under Section 408.0221, Labor Code, as added by this article, takes effect on the certification by the Texas Workers' Compensation Commission that the regional network is operational.

ARTICLE 3. RETURN-TO-WORK REPORTING AND SERVICES

SECTION 3.01. Section 409.005, Labor Code, is amended to read as follows:

Sec. 409.005. REPORT OF INJURY; MODIFIED DUTY PROGRAM NOTICE; ADMINISTRATIVE VIOLATION. (a) An employer shall report to the employer's insurance carrier if:

(1) an injury results in the absence of an employee of that employer from work for more than one day; or

(2) an employee of the employer notifies that employer of an occupational disease under Section 409.001.

(b) The report under Subsection (a) must be made not later than the eighth day after:

(1) the employee's absence from work for more than one day due to an injury; or

(2) the day on which the employer receives notice under Section 409.001 that the employee has contracted an occupational disease.

(c) The employer shall deliver a written copy of the report under

Subsection (a) to the injured employee at the time that the report is made to the insurance carrier.

(d) The insurance carrier shall file the report of the injury on behalf of the policyholder. Except as provided by Subsection (e), the insurance carrier must electronically file the report with the commission not later than the seventh day after the date on which the carrier receives the report from the employer.

(e) The executive director may waive the electronic filing requirement under Subsection (d) and allow an insurance carrier to mail or deliver the report to the commission not later than the seventh day after the date on which the carrier receives the report from the employer.

(f) A report required under this section may not be considered to be an admission by or evidence against an employer or an insurance carrier in a proceeding before the commission or a court in which the facts set out in the report are contradicted by the employer or insurance carrier.

(g) In addition to any information required under Subsection (h), the report provided to the injured employee under Subsection (c) must contain a summary written in plain language of the employee's statutory rights and responsibilities under this subtitle.

(h) The commission may adopt rules relating to:

(1) the information that must be contained in a report required under this section, including the summary of rights and responsibilities required under Subsection (g); and

(2) the development and implementation of an electronic filing system for injury reports under this section.

(i) An employer and insurance carrier shall file subsequent reports as required by commission rule.

(j) The employer shall, on the written request of the employee, a doctor, the insurance carrier, or the commission, notify the employee, the employee's treating doctor if known to the employer, and the insurance carrier of the existence or absence of opportunities for modified duty or a modified duty return-to-work program available through the employer. If those opportunities or that program exists, the employer shall identify the employer's contact person and provide other information to assist the doctor, the employee, and the insurance carrier to assess modified duty or return-to-work options.

(k) This section does not prohibit the commission from imposing requirements relating to return-to-work under other authority granted to the commission in this subtitle.

(l) A person commits a violation if the person fails to comply with this section unless good cause exists. A violation under this subsection is a Class D administrative violation.

SECTION 3.02. Subchapter B, Chapter 413, Labor Code, is amended by adding Section 413.021 to read as follows:

Sec. 413.021. RETURN-TO-WORK COORDINATION SERVICES. (a) An insurance carrier shall, with the agreement of a participating employer, provide the employer with return-to-work coordination services as necessary to facilitate an employee's return to employment. The insurance carrier shall notify the employer of the availability of return-to-work coordination services.

In offering the services, insurance carriers and the commission shall target employers without return-to-work programs and shall focus return-to-work efforts on workers who begin to receive temporary income benefits. These services may be offered by insurance carriers in conjunction with the accident prevention services provided under Section 411.061. Nothing in this section supersedes the provisions of a collective bargaining agreement between an employer and the employer's employees, and nothing in this section authorizes or requires an employer to engage in conduct that would otherwise be a violation of the employer's obligations under the National Labor Relations Act (29 U.S.C. Section 151 et seq.), and its subsequent amendments.

(b) Return-to-work coordination services under this section may include:

- (1) job analysis to identify the physical demands of a job;
- (2) job modification and restructuring assessments as necessary to match job requirements with the functional capacity of an employee; and
- (3) medical or vocational case management to coordinate the efforts of the employer, the treating doctor, and the injured employee to achieve timely return to work.

(c) An insurance carrier is not required to provide physical workplace modifications under this section and is not liable for the cost of modifications made under this section to facilitate an employee's return to employment.

(d) The commission shall use certified rehabilitation counselors or other appropriately trained or credentialed specialists to provide training to commission staff regarding the coordination of return-to-work services under this section.

(e) The commission shall adopt rules necessary to collect data on return-to-work outcomes to allow full evaluations of successes and of barriers to achieving timely return to work after an injury.

(f) The commission shall report twice annually to the Research and Oversight Council on Workers' Compensation regarding the implementation and outcome of the return-to-work initiatives required by this section.

SECTION 3.03. The Texas Workers' Compensation Commission may adopt rules as necessary to implement Sections 409.005(j) and 413.021, Labor Code, as added by this article, not earlier than January 1, 2004.

ARTICLE 4. PREAUTHORIZATION, CONCURRENT REVIEW, AND CERTIFICATION REQUIREMENTS

SECTION 4.01. Section 408.026, Labor Code, is amended to read as follows:

Sec. 408.026. SPINAL SURGERY [~~SECOND OPINION~~]. [~~(a)~~] Except in a medical emergency, an insurance carrier is liable for medical costs related to spinal surgery only as provided by Section 413.014 and commission rules [if:

[~~(1) before surgery, the employee obtains from a doctor approved by the insurance carrier or the commission a second opinion that concurs with the treating doctor's recommendation;~~

[~~(2) the insurance carrier waives the right to an examination or fails to request an examination before the 15th day after the date of the notification that surgery is recommended; or~~

[~~(3) the commission determines that extenuating circumstances exist and orders payment for surgery~~].

~~[(b) The commission shall adopt rules necessary to ensure that an examination required under this section is performed without undue delay.]~~

SECTION 4.02. Section 413.014, Labor Code, is amended to read as follows:

Sec. 413.014. PREAUTHORIZATION REQUIREMENTS; CONCURRENT REVIEW AND CERTIFICATION OF HEALTH CARE. (a) In this section, "investigational or experimental service or device" means a health care treatment, service, or device for which there is early, developing scientific or clinical evidence demonstrating the potential efficacy of the treatment, service, or device but that is not yet broadly accepted as the prevailing standard of care.

(b) The commission by rule shall specify which health care treatments and services require express preauthorization or concurrent review by the insurance carrier. Treatments and services for a medical emergency do not require express preauthorization.

(c) The commission rules adopted under this section must provide that preauthorization and concurrent review are required at a minimum for:

(1) spinal surgery, as provided by Section 408.026;

(2) work-hardening or work-conditioning services provided by a health care facility that is not credentialed by an organization recognized by commission rules;

(3) inpatient hospitalization, including any procedure and length of stay;

(4) outpatient or ambulatory surgical services, as defined by commission rule; and

(5) any investigational or experimental services or devices.

(d) ~~[(b)]~~ The insurance carrier is not liable for those specified treatments and services requiring preauthorization unless preauthorization is sought by the claimant or health care provider and either obtained from the insurance carrier or ordered by the commission.

(e) The commission may not prohibit an insurance carrier and a health care provider from voluntarily discussing health care treatment and treatment plans, either prospectively or concurrently, and may not prohibit an insurance carrier from certifying or agreeing to pay for health care consistent with those agreements.

SECTION 4.03. Subchapter B, Chapter 413, Labor Code, is amended by adding Section 413.0141 to read as follows:

Sec. 413.0141. INITIAL PHARMACEUTICAL COVERAGE. The commission may by rule provide that an insurance carrier shall provide for payment of specified pharmaceutical services sufficient for the first seven days following the date of injury if the health care provider requests and receives verification of insurance coverage and a verbal confirmation of an injury from the employer or from the insurance carrier as provided by Section 413.014. The rules adopted by the commission shall provide that an insurance carrier is eligible for reimbursement for pharmaceutical services paid under this section from the subsequent injury fund in the event the injury is determined not to be compensable.

SECTION 4.04. The Texas Workers' Compensation Commission shall adopt the rules required under Sections 408.026 and 413.014, Labor Code,

as amended by this article, not later than February 1, 2002. The changes in law made by Sections 408.026 and 413.014, Labor Code, as amended by this article, apply only to health care services requested or provided on or after the effective date of the rules adopted by the commission, and the former law is continued in effect for health care services requested or provided before that date. The commission may adopt rules required by Section 413.0141, Labor Code, as added by this article, on or after September 1, 2002.

ARTICLE 5. REQUIRED MEDICAL EXAMINATIONS;
DESIGNATED DOCTORS

SECTION 5.01. Sections 408.004(a) and (c), Labor Code, are amended to read as follows:

(a) The commission may require an employee to submit to medical examinations to resolve any question about:

(1) the appropriateness of the health care received by the employee;

or

(2) ~~the impairment caused by the compensable injury;~~
~~[(3) the attainment of maximum medical improvement; or~~
~~[(4)] similar issues.~~

(c) The insurance carrier shall pay for:

(1) an examination required under Subsection (a) or (b); and

(2) the reasonable expenses ~~[expense]~~ incident to the employee in submitting to the examination.

SECTION 5.02. Subchapter A, Chapter 408, Labor Code, is amended by adding Section 408.0041 to read as follows:

Sec. 408.0041. DESIGNATED DOCTOR EXAMINATION. (a) At the request of an insurance carrier or an employee, the commission shall order a medical examination to resolve any question about:

(1) the impairment caused by the compensable injury; or

(2) the attainment of maximum medical improvement.

(b) A medical examination requested under Subsection (a) shall be performed by the next available doctor on the commission's list of designated doctors whose credentials are appropriate for the issue in question and the injured employee's medical condition. The designated doctor doing the review must be trained and experienced with the treatment and procedures used by the doctor treating the patient's medical condition, and the treatment and procedures performed must be within the scope of practice of the designated doctor. The commission shall assign a designated doctor not later than the 10th day after the date on which the request under Subsection (a) is received, and the examination must be conducted not later than the 21st day after the date on which the commission issues the order under Subsection (a). An examination under this section may not be conducted more frequently than every 60 days, unless good cause for more frequent examinations exists, as defined by commission rules.

(c) The treating doctor and the insurance carrier are both responsible for sending to the designated doctor all of the injured employee's medical records relating to the issue to be evaluated by the designated doctor that are in their possession. The treating doctor and insurance carrier may send the records without a signed release from the employee. The designated doctor is authorized to receive the employee's confidential medical records to assist in

the resolution of disputes. The treating doctor and insurance carrier may also send the designated doctor an analysis of the injured employee's medical condition, functional abilities, and return-to-work opportunities.

(d) To avoid undue influence on a person selected as a designated doctor under this section, and except as provided by Subsection (c), only the injured employee or an appropriate member of the staff of the commission may communicate with the designated doctor about the case regarding the injured employee's medical condition or history before the examination of the injured employee by the designated doctor. After that examination is completed, communication with the designated doctor regarding the injured employee's medical condition or history may be made only through appropriate commission staff members. The designated doctor may initiate communication with any doctor who has previously treated or examined the injured employee for the work-related injury or with peer reviewers identified by the insurance carrier.

(e) The designated doctor shall report to the commission. The report of the designated doctor has presumptive weight unless the great weight of the evidence is to the contrary. An employer may make a bona fide offer of employment subject to Sections 408.103(e) and 408.144(c) based on the designated doctor's report.

(f) If an insurance carrier is not satisfied with the opinion rendered by a designated doctor under this section, the insurance carrier may request the commission to order an employee to attend an examination by a doctor selected by the insurance carrier. The commission shall allow the insurance carrier reasonable time to obtain and present the opinion of the doctor selected under this subsection before the commission makes a decision on the merits of the issue in question.

(g) The insurance carrier shall pay for:

- (1) an examination required under Subsection (a) or (f); and
- (2) the reasonable expenses incident to the employee in submitting to the examination.

(h) An employee is not entitled to compensation, and an insurance carrier is authorized to suspend the payment of temporary income benefits, during and for a period in which the employee fails to submit to an examination required by this chapter unless the commission determines that the employee had good cause for the failure to submit to the examination. The commission may order temporary income benefits to be paid for the period for which the commission determined that the employee had good cause. The commission by rule shall ensure that:

- (1) an employee receives reasonable notice of an examination and the insurance carrier's basis for suspension; and
- (2) the employee is provided a reasonable opportunity to reschedule an examination for good cause.

(i) If the report of a designated doctor indicates that an employee has reached maximum medical improvement, the insurance carrier may suspend or reduce the payment of temporary income benefits immediately.

(j) The employee or the insurance carrier may request that the commission hold an expedited benefit review conference to dispute a decision made under this section. The commission shall adopt rules as necessary to implement this subsection. This subsection expires September 1, 2003.

SECTION 5.03. Sections 408.122(b) and (c), Labor Code, are amended to read as follows:

(b) To be eligible to serve as a designated doctor, a doctor must meet specific qualifications, including training in the determination of impairment ratings. The executive director shall develop qualification standards and administrative policies to implement this subsection, and the commission may adopt rules as necessary. The designated doctor doing the review must be trained and experienced with the treatment and procedures used by the doctor treating the patient's medical condition, and the treatment and procedures performed must be within the scope of practice of the designated doctor. A designated doctor's credentials must be appropriate for the issue in question and the injured employee's medical condition. ~~[To the extent possible, a designated doctor must be in the same discipline and licensed by the same board of examiners as the employee's doctor of choice.]~~

~~(c) [If a dispute exists as to whether the employee has reached maximum medical improvement, the commission shall direct the employee to be examined by a designated doctor chosen by mutual agreement of the parties. If the parties are unable to agree on a designated doctor, the commission shall direct the employee to be examined by a designated doctor chosen by the commission. The designated doctor shall report to the commission.]~~ The report of the designated doctor has presumptive weight, and the commission shall base its determination of whether the employee has reached maximum medical improvement on the report unless the great weight of the other medical evidence is to the contrary.

SECTION 5.04. Section 408.125, Labor Code, is amended to read as follows:

Sec. 408.125. DISPUTE AS TO IMPAIRMENT RATING. (a) If an impairment rating is disputed, the commission shall direct the employee to the next available doctor on the commission's list of designated doctors, as provided by Section 408.0041 ~~[be examined by a designated doctor chosen by mutual agreement of the parties].~~

~~(b) [If the parties are unable to agree on a designated doctor, the commission shall direct the employee to be examined by a designated doctor chosen by the commission.~~

~~[(c)]~~ The designated doctor shall report in writing to the commission.

~~(c) The [(d) If the designated doctor is chosen by the parties, the commission shall adopt the impairment rating made by the designated doctor.~~

~~[(e) If the designated doctor is chosen by the commission, the]~~ report of the designated doctor shall have presumptive weight, and the commission shall base the impairment rating on that report unless the great weight of the other medical evidence is to the contrary. If the great weight of the medical evidence contradicts the impairment rating contained in the report of the designated doctor chosen by the commission, the commission shall adopt the impairment rating of one of the other doctors.

~~(d) [(f)]~~ To avoid undue influence on a person selected as a designated doctor under this section, only the injured employee or an appropriate member of the staff of the commission may communicate with the designated doctor about the case regarding the injured employee's medical condition or history before the examination of the injured employee by the designated doctor.

After that examination is completed, communication with the designated doctor regarding the injured employee's medical condition or history may be made only through appropriate commission staff members. The designated doctor may initiate communication with any doctor who has previously treated or examined the injured employee for the work-related injury.

(e) Notwithstanding Subsection (d), the treating doctor and the insurance carrier are both responsible for sending to the designated doctor all the injured employee's medical records that are in their possession and that relate to the issue to be evaluated by the designated doctor. The treating doctor and the insurance carrier may send the records without a signed release from the employee. The designated doctor is authorized to receive the employee's confidential medical records to assist in the resolution of disputes. The treating doctor and the insurance carrier may also send the designated doctor an analysis of the injured employee's medical condition, functional abilities, and return-to-work opportunities.

(f) [(g)] A violation of Subsection (d) [(f)] is a Class C administrative violation.

SECTION 5.05. The Research and Oversight Council on Workers' Compensation shall report to the legislature not later than December 31, 2004, regarding issues related to medical examinations conducted under Section 408.0041, Labor Code, as added by this article.

SECTION 5.06. Section 408.004, Labor Code, as amended by this article, and Section 408.0041, Labor Code, as added by this article, apply only to a request for a medical examination made to the Texas Workers' Compensation Commission by an insurance carrier on or after January 1, 2002.

ARTICLE 6. MEDICAL BENEFIT REGULATION; DISPUTE RESOLUTION

SECTION 6.01. Section 408.028, Labor Code, is amended to read as follows:

Sec. 408.028. PHARMACEUTICAL SERVICES. (a) A physician [health care practitioner] providing care to an employee under this subchapter shall prescribe for the employee any necessary prescription drugs, and order over-the-counter alternatives to prescription medications as clinically appropriate and applicable, in accordance with applicable state law and as provided by Subsection (b). (b). A doctor providing care may order over-the-counter alternatives to prescription medications, when clinically appropriate, in accordance with applicable state law and as provided by Subsection (b).

(b) The commission by rule shall develop an open formulary under Section 413.011 that requires the use of generic pharmaceutical medications and clinically appropriate over-the-counter alternatives to prescription medications unless otherwise specified by the prescribing doctor, in accordance with applicable state law.

(c) Except as otherwise provided by this subtitle, an [An] insurance carrier may not require an employee to use pharmaceutical services designated by the carrier.

(d) The commission shall adopt rules to allow an employee to purchase over-the-counter alternatives to prescription medications prescribed or ordered under Subsection (a) or (b) and to obtain reimbursement from the insurance carrier for those medications.

SECTION 6.02. Section 413.011, Labor Code, is amended to read as follows:

Sec. 413.011. REIMBURSEMENT POLICIES AND GUIDELINES; TREATMENT GUIDELINES ~~[AND MEDICAL POLICIES]~~. (a) The commission ~~[by rule]~~ shall use health care reimbursement policies and guidelines that reflect the standardized reimbursement structures found in other health care delivery systems with minimal modifications to those reimbursement methodologies as necessary to meet occupational injury requirements. To achieve standardization, the commission shall adopt the most current reimbursement methodologies, models, and values or weights used by the federal Health Care Financing Administration, including applicable payment policies relating to coding, billing, and reporting, and may modify documentation requirements as necessary to meet the requirements of Section 413.053.

(b) In determining the appropriate fees, the commission shall also develop conversion factors or other payment adjustment factors taking into account economic indicators in health care and the requirements of Subsection (d). The commission shall also provide for reasonable fees for the evaluation and management of care as required by Section 408.025(c) and commission rules. This section does not adopt the Medicare fee schedule, and the commission shall not adopt conversion factors or other payment adjustment factors based solely on those factors as developed by the federal Health Care Financing Administration.

(c) This section may not be interpreted in a manner that would discriminate in the amount or method of payment or reimbursement for services in a manner prohibited by Section 3(d), Article 21.52, Insurance Code, or as restricting the ability of chiropractors to serve as treating doctors as authorized by this subtitle. The commission shall also develop guidelines relating to ~~[establish medical policies and guidelines relating to:~~

~~[(1) fees charged or paid for medical services for employees who suffer compensable injuries, including guidelines relating to payment of fees for specific medical treatments or services;~~

~~[(2) use of medical services by employees who suffer compensable injuries; and~~

~~[(3)] fees charged or paid for providing expert testimony relating to an issue arising under this subtitle.~~

(d) ~~[(b)]~~ Guidelines for medical services fees must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. The commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines.

(e) The commission by rule may adopt treatment guidelines, including return-to-work guidelines. If adopted, treatment guidelines adopted must be nationally recognized, scientifically valid, and outcome-based and designed to reduce excessive or inappropriate medical care while safeguarding necessary medical care ~~[(c) Medical policies adopted by the commission must be consistent with Sections 413.013, 413.020, 413.052, and 413.053].~~

(f) ~~(d)~~ The commission by rule may ~~shall~~ establish medical policies or treatment guidelines relating to necessary treatments for injuries.

(g) Any medical ~~Medical~~ policies or guidelines adopted by the commission must ~~shall~~ be:

(1) designed to ensure the quality of medical care and to achieve effective medical cost control;

(2) designed to enhance a timely and appropriate return to work; and

(3) consistent with Sections 413.013, 413.020, 413.052, and 413.053.

SECTION 6.03. Section 413.015(a), Labor Code, is amended to read as follows:

(a) Insurance carriers shall make appropriate payment of charges for medical services provided under this subtitle. An insurance carrier may contract with a separate entity to forward payments for medical services. Any payment due the insurance carrier from the separate entity must be made in accordance with the contract. The separate entity is subject to the direction of the insurance carrier, and the insurance carrier is responsible for the actions of the separate entity under this subsection.

SECTION 6.04. Section 413.031, Labor Code, is amended to read as follows:

Sec. 413.031. MEDICAL DISPUTE RESOLUTION. (a) A party, including a health care provider, is entitled to a review of a medical service provided or for which authorization of payment is sought if a health care provider is:

(1) denied payment or paid a reduced amount for the medical service rendered;

(2) denied authorization for the payment for the service requested or performed if authorization is required or allowed by this subtitle or ~~the medical policies of the~~ commission rules; ~~or~~

(3) ordered by the commission ~~division~~ to refund a payment received; or

(4) ordered to make a payment that was refused or reduced for a medical service rendered.

(b) A health care provider who submits a charge in excess of the fee guidelines or treatment policies is entitled to a review of the medical service to determine if reasonable medical justification exists for the deviation. A claimant is entitled to a review of a medical service for which preauthorization is sought by the health care provider and denied by the insurance carrier. The commission shall adopt rules to notify claimants of their rights under this subsection.

(c) In resolving disputes over the amount of payment due for services determined to be medically necessary and appropriate for treatment of a compensable injury, the role of the commission is to adjudicate the payment given the relevant statutory provisions and commission rules. The commission shall publish on its Internet website its medical dispute decisions, including decisions of independent review organizations, and any subsequent decisions by the State Office of Administrative Hearings. Before publication, the commission shall redact only that information necessary to prevent identification of the injured worker.

(d) A review of the medical necessity of a health care [medical] service requiring preauthorization under Section 413.014 or commission rules under that [this] section shall be conducted by an independent review organization under Article 21.58C, Insurance Code, in the same manner as reviews of utilization review decisions by health maintenance organizations. It is a defense for the insurance carrier if the carrier timely complies with the decision of the independent review organization [provided by a health care provider professional review organization if requested by the health care practitioner or if ordered by the commission].

(e) Except as provided by Subsection (d), a review of the medical necessity of a health care service provided under this chapter or Chapter 408 shall be conducted by an independent review organization under Article 21.58C, Insurance Code, in the same manner as reviews of utilization review decisions by health maintenance organizations. It is a defense for the insurance carrier if the carrier timely complies with the decision of the independent review organization.

(f) The commission by rule shall specify the appropriate dispute resolution process for disputes in which a claimant has paid for medical services and seeks reimbursement.

(g) In performing a review of medical necessity under Subsection (d) or (e), an independent review organization may request that the commission order an examination by a designated doctor under Chapter 408.

(h) The insurance carrier shall pay the cost of the review if the dispute arises in connection with a request for health care services that require preauthorization under Section 413.014 or commission rules under that section.

(i) Except as provided by Subsection (h), the cost of the review shall be paid by the nonprevailing party.

(j) Notwithstanding Subsections (h) and (i), an employee may not be required to pay any portion of the cost of a review.

(k) Except as provided by Subsection (l), a [del]A party to a medical dispute that remains unresolved after a review of the medical service under this section is entitled to a hearing. The hearing shall be conducted by the State Office of Administrative Hearings within 90 days of receipt of a request for a hearing in the manner provided for a contested case under Chapter 2001, Government Code (the administrative procedure law). A party who has exhausted the party's administrative remedies under this subtitle and who is aggrieved by a final decision of the State Office of Administrative Hearings may seek judicial review of the decision. Judicial review under this subsection shall be conducted in the manner provided for judicial review of contested cases under Subchapter G, Chapter 2001, Government Code.

(l) A party to a medical dispute regarding spinal surgery that remains unresolved after a review by an independent review organization as provided by Subsections (d) and (e) is entitled to dispute resolution as provided by Chapter 410.

SECTION 6.05. Section 413.041, Labor Code, is amended to read as follows:

Sec. 413.041. DISCLOSURE. (a) Each health care practitioner shall disclose to the commission the identity of any health care provider in which the health care practitioner, or the health care provider that employs the

health care practitioner, has a financial interest. The health care practitioner shall make the disclosure in the manner provided by commission rule.

(b) The commission shall require by rule that a doctor disclose financial interests in other health care providers as a condition of registration for the approved doctor list established under Section 408.023 and shall define "financial interest" for purposes of this subsection as provided by analogous federal regulations. The commission by rule shall adopt the federal standards that prohibit the payment or acceptance of payment in exchange for health care referrals relating to fraud, abuse, and anti-kickbacks.

(c) A health care provider that fails to comply with this section is subject to penalties and sanctions as provided by this subtitle, including forfeiture of the right to reimbursement for services rendered during the period of noncompliance.

(d) The commission shall publish all final disclosure enforcement orders issued under this section on the commission's Internet website. [A health care provider who refers a workers' compensation claimant to another health care provider in which the referring provider has more than a five percent financial interest shall file an annual disclosure statement with the commission as provided by commission rules and shall disclose the interest to the insurance carrier at the time of the referral. The referring provider shall specify the degree of the financial interest and shall provide other information as required by commission rules.]

SECTION 6.06. Section 415.0035, Labor Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) An insurance carrier or health care provider commits an administrative violation if that person violates this subtitle or a rule, order, or decision of the commission.

(f) A subsequent administrative violation under this section, after prior notice to the insurance carrier or health care provider of noncompliance, is subject to penalties as provided by Section 415.021. Prior notice under this subsection is not required if the violation was committed wilfully or intentionally, or if the violation was of a decision or order of the commission.

SECTION 6.07. Section 415.021(a), Labor Code, is amended to read as follows:

(a) The commission may assess an administrative penalty against a person who commits an administrative violation. Notwithstanding Subsection (c), the commission by rule shall adopt a schedule of specific monetary administrative penalties for specific violations under this subtitle.

SECTION 6.08. Section 415.023, Labor Code, is amended to read as follows:

Sec. 415.023. COMMISSION OF WRONGFUL ACT AS MATTER OF PRACTICE; ADMINISTRATIVE VIOLATION. (a) A person who commits an administrative violation under Section 415.001, 415.002, [or] 415.003, or 415.0035 as a matter of practice is subject to an applicable rule adopted under Subsection (b) in addition to the penalty assessed for the violation.

(b) The commission may adopt rules providing for:

- (1) a reduction or denial of fees;
- (2) public or private reprimand by the commission;
- (3) suspension from practice before the commission; [or]

(4) restriction, suspension, or revocation of the right to receive reimbursement under this subtitle; or

(5) referral and petition to the appropriate licensing authority for appropriate disciplinary action, including the restriction, suspension, or revocation of the person's license.

SECTION 6.09. (a) The Texas Workers' Compensation Commission shall adopt the rules required by Section 408.028, Labor Code, as amended by this article, not later than February 1, 2002.

(b) The Texas Workers' Compensation Commission shall adopt the rules and fee guidelines under Section 413.011, Labor Code, as amended by this article, not later than May 1, 2002. The treatment guidelines adopted under Chapter 413, Labor Code, in effect immediately before September 1, 2001, are abolished on January 1, 2002.

(c) The Texas Workers' Compensation Commission shall adopt rules as required by Section 413.041, Labor Code, as amended by this article, not later than June 1, 2002.

(d) The change in law made by this article by the amendment of Section 413.031, Labor Code, applies only to a request for a review of medical services filed with the Texas Workers' Compensation Commission on or after January 1, 2002. A request filed with the commission before that date is covered by the law in effect immediately before January 1, 2002, and that law is continued in effect for that purpose.

(e) Section 413.041(c), Labor Code, as added by this article, applies only to a failure to comply with Section 413.041 that occurs after June 1, 2002.

(f) Sections 415.023 and 415.0035, Labor Code, as amended by this article, apply only to a violation occurring on or after September 1, 2001.

ARTICLE 7. SUNSET REVIEW; AUDIT

SECTION 7.01. Section 401.002, Labor Code, is amended to read as follows:

Sec. 401.002. APPLICATION OF SUNSET ACT. The Texas Workers' Compensation Commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished September 1, 2005 [2007].

SECTION 7.02. Subchapter A, Chapter 401, Labor Code, is amended by adding Section 401.003 to read as follows:

Sec. 401.003. ACTIVITIES OF THE STATE AUDITOR. (a) The commission is subject to audit by the state auditor in accordance with Chapter 321, Government Code. The state auditor may audit the commission's:

(1) structure and internal controls;

(2) level and quality of service provided to employers, injured employees, insurance carriers, self-insured governmental entities, and other participants;

(3) implementation of statutory mandates;

(4) employee turnover;

(5) information management systems, including public access to nonconfidential information;

(6) adoption and implementation of administrative rules; and

(7) assessment of administrative violations and the penalties for those violations.

(b) Nothing in this section limits the authority of the state auditor under Chapter 321, Government Code.

ARTICLE 8. ATTORNEY'S FEES

SECTION 8.01. Section 408.221, Labor Code, is amended to read as follows:

Sec. 408.221. ATTORNEY'S FEES PAID TO CLAIMANT'S COUNSEL.

(a) An attorney's fee, including a contingency fee, for representing a claimant before the commission or court under this subtitle must be approved by the commission or court.

(b) Except as otherwise provided, an attorney's fee under this section is based on the attorney's time and expenses according to written evidence presented to the commission or court. Except as provided by Subsection (c) or Section 408.147(c), the attorney's fee shall be paid from the claimant's recovery.

(c) An insurance carrier that seeks judicial review under Subchapter G, Chapter 410, of a final decision of a commission appeals panel regarding compensability or eligibility for, or the amount of, income or death benefits is liable for reasonable and necessary attorney's fees as provided by Subsection (d) incurred by the claimant as a result of the insurance carrier's appeal if the claimant prevails on an issue on which judicial review is sought by the insurance carrier in accordance with the limitation of issues contained in Section 410.302. If the carrier appeals multiple issues and the claimant prevails on some, but not all, of the issues appealed, the court shall apportion and award fees to the claimant's attorney only for the issues on which the claimant prevails. In making that apportionment, the court shall consider the factors prescribed by Subsection (d). This subsection does not apply to attorney's fees for which an insurance carrier may be liable under Section 408.147. An award of attorney's fees under this subsection is not subject to commission rules adopted under Subsection (f). This subsection expires September 1, 2005.

(d) In approving an attorney's fee under this section, the commission or court shall consider:

- (1) the time and labor required;
- (2) the novelty and difficulty of the questions involved;
- (3) the skill required to perform the legal services properly;
- (4) the fee customarily charged in the locality for similar legal services;
- (5) the amount involved in the controversy;
- (6) the benefits to the claimant that the attorney is responsible for securing; and

- (7) the experience and ability of the attorney performing the services.

(e) [(d)] The commission by rule or the court may provide for the commutation of an attorney's fee, except that the attorney's fee shall be paid in periodic payments in a claim involving death benefits if the only dispute is as to the proper beneficiary or beneficiaries.

(f) [(e)] The commission by rule shall provide guidelines for maximum attorney's fees for specific services in accordance with this section.

(g) [(f)] An attorney's fee may not be allowed in a case involving a fatal injury or lifetime income benefit if the insurance carrier admits liability on

all issues and tenders payment of maximum benefits in writing under this subtitle while the claim is pending before the commission.

(h) ~~[(g)]~~ An attorney's fee shall be paid to the attorney by separate draft.

(i) ~~[(h)]~~ Except as provided by Subsection (c) or Section 408.147(c), an attorney's fee may not exceed 25 percent of the claimant's recovery.

SECTION 8.02. Section 408.147(c), Labor Code, is amended to read as follows:

(c) If an insurance carrier disputes a commission determination that an employee is entitled to supplemental income benefits or the amount of supplemental income benefits due and the employee prevails on any disputed issue, the insurance carrier is liable for reasonable and necessary attorney's fees incurred by the employee as a result of the insurance carrier's dispute and for supplemental income benefits accrued but not paid and interest on that amount, according to Section 408.064. Attorney's fees awarded under this subsection are not subject to Sections 408.221(b), ~~(f)~~ ~~[(e)]~~, and ~~(i)~~ ~~[(h)]~~.

SECTION 8.03. Section 408.222(b), Labor Code, is amended to read as follows:

(b) In determining whether a fee is reasonable under this section, the commission or court shall consider issues analogous to those listed under Section ~~408.221(d)~~ ~~[(408.221(e))]~~. The defense counsel shall present written evidence to the commission or court relating to:

- (1) the time spent and expenses incurred in defending the case; and
- (2) other evidence considered necessary by the commission or court in making a determination under this section.

SECTION 8.04. The change in law made by this article applies only to a request for judicial review that occurs on or after September 1, 2001. A request for judicial review that occurs before that date is governed by the law in effect on the date the request is made, and the former law is continued in effect for that purpose.

ARTICLE 9. LIFETIME INCOME BENEFITS

SECTION 9.01. Section 408.161(a), Labor Code, is amended to read as follows:

- (a) Lifetime income benefits are paid until the death of the employee for:
- (1) total and permanent loss of sight in both eyes;
 - (2) loss of both feet at or above the ankle;
 - (3) loss of both hands at or above the wrist;
 - (4) loss of one foot at or above the ankle and the loss of one hand at or above the wrist;
 - (5) an injury to the spine that results in permanent and complete paralysis of both arms, both legs, or one arm and one leg; ~~or~~
 - (6) a physically traumatic injury to the brain resulting in incurable insanity or imbecility; or
 - (7) third degree burns that cover at least 40 percent of the body and require grafting, or third degree burns covering the majority of either both hands or one hand and the face.

ARTICLE 10. AVERAGE WEEKLY WAGE; MULTIPLE EMPLOYMENT; SUBSEQUENT INJURY FUND

SECTION 10.01. Section 403.006, Labor Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) The subsequent injury fund is liable for:

(1) the payment of compensation as provided by Section 408.162;

(2) reimbursement of insurance carrier claims of overpayment of benefits made under an interlocutory order or decision of the commission as provided by this subtitle, consistent with the priorities established by rule by the commission;

(3) reimbursement of insurance carrier claims as provided by Sections 408.042 and 413.0141, consistent with the priorities established by rule by the commission; and

(4) the payment of an assessment of feasibility and the development of regional networks established under Section 408.0221.

(d) Based on an actuarial assessment of the funding available under Section 403.007(e), the commission may make partial payment of insurance carrier claims under Subsection (b)(3).

SECTION 10.02. Section 403.007, Labor Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) If the commission determines that the funding under Subsection (a) is not adequate to meet the expected obligations of the subsequent injury fund established under Section 403.006, the fund shall be supplemented by the collection of a maintenance tax paid by insurance carriers, other than a governmental entity, as provided by Sections 403.002 and 403.003. The rate of assessment must be adequate to provide 120 percent of the projected unfunded liabilities of the fund for the next biennium as certified by an independent actuary or financial advisor.

(f) The commission's actuary or financial advisor shall report biannually to the Research and Oversight Council on Workers' Compensation on the financial condition and projected assets and liabilities of the subsequent injury fund. The commission shall make the reports available to members of the legislature and the public. The commission may purchase annuities to provide for payments due to claimants under this subtitle if the commission determines that the purchase of annuities is financially prudent for the administration of the fund.

SECTION 10.03. Section 408.042, Labor Code, is amended to read as follows:

Sec. 408.042. AVERAGE WEEKLY WAGE FOR PART-TIME EMPLOYEE OR EMPLOYEE WITH MULTIPLE EMPLOYMENT. (a) The average weekly wage of a part-time employee who limits the employee's work to less than ~~[full-time hours or]~~ a full-time workweek as a regular course of that employee's conduct is computed as provided by Section 408.041.

(b) For part-time employees not covered by Subsection (a), the average weekly wage:

(1) for determining temporary income benefits is computed as provided by Section 408.041; and

(2) for determining impairment income benefits, supplemental income benefits, lifetime income benefits, and death benefits is computed as follows:

(A) if the employee has worked for the employer for at least the 13 weeks immediately preceding the date of the injury, the average weekly wage is computed by dividing the sum of the wages paid in the 13 consecutive weeks immediately preceding the date of the injury by 13 and adjusting that

amount to the weekly wage level the employee would have attained by working a full-time workweek at the same rate of pay; or

(B) if the employee has worked for the employer for less than 13 weeks immediately preceding the date of the injury, the average weekly wage is equal to:

(i) the weekly wage that the employer pays a similar employee for similar services based on a [in] full-time workweek [employment]; or

(ii) if a similar employee does not exist, the usual wage paid in that vicinity for the same or similar services based on a [provided for compensation in] full-time workweek [employment].

(c) For employees with multiple employment, the average weekly wage for determining temporary income benefits, impairment income benefits, supplemental income benefits, lifetime income benefits, and death benefits, is computed as follows:

(1) the average weekly wage for an employee with multiple employment is equal to the sum of the average weekly wages computed under Subdivisions (2) and (3);

(2) for each of the employers for whom the employee has worked for at least the 13 weeks immediately preceding the date of injury, the average weekly wage is equal to the sum of the wages paid by that employer to the employee in the 13 weeks immediately preceding the injury divided by 13;

(3) for each of the employers for whom the employee has worked for less than the 13 weeks immediately preceding the date of the injury, the average weekly wage is equal to:

(A) the weekly wage that employer pays similar employees for similar services; or

(B) if a similar employee does not exist, the usual weekly wage paid in that vicinity for the same or similar services; and

(4) the average weekly wage of an employee with multiple employment who limits the employee's work to less than a full-time workweek, but does not do so as a regular course of that employee's conduct, is adjusted to the weekly wage level the employee would have attained by working a full-time workweek at the employee's average rate of pay.

(d) The commission shall:

(1) prescribe a form to collect information regarding the wages of employees with multiple employment; and

(2) by rule, determine the manner by which the commission collects and distributes wage information to implement this section.

(e) For an employee with multiple employment, only the employee's wages that are reportable for federal income tax purposes may be considered. The employee shall document and verify wage payments subject to this section.

(f) If the commission determines that computing the average weekly wage for an employee as provided by Subsection (c) is impractical or unreasonable, the commission shall set the average weekly wage in a manner that more fairly reflects the employee's average weekly wage and that is fair and just to both parties or is in the manner agreed to by the parties. The commission by rule may define methods to determine a fair and just average weekly wage consistent with this section.

(g) An insurance carrier is entitled to apply for and receive reimbursement at least annually from the subsequent injury fund for the amount of income benefits paid to a worker under this section that are based on employment other than the employment during which the compensable injury occurred. The commission may adopt rules that govern the documentation, application process, and other administrative requirements necessary to implement this subsection.

(h) In this section:

(1) "Employee with multiple employment" means an employee who has more than one employer.

(2) "Full-time workweek" means a 40-hour workweek.

(3) "Part-time[~~,"part-time~~] employee" means an employee who, at the time of the injury, was working less than a [the] full-time [hours or full-time] workweek for the employer for whom the employee was working when the compensable injury occurred [of similar employees in the same employment, whether for the same or a different employer].

SECTION 10.04. Subchapter C, Chapter 408, Labor Code, is amended by adding Section 408.0446 to read as follows:

Sec. 408.0446. AVERAGE WEEKLY WAGE: SCHOOL DISTRICT EMPLOYEE. (a) For determining the amount of temporary income benefits of a school district employee under Chapter 504, the average weekly wage is computed on the basis of wages earned in a week rather than on the basis of wages paid in a week. The wages earned in any given week are equal to the amount that would be deducted from an employee's salary if the employee were absent from work for one week and the employee did not have personal leave available to compensate the employee for lost wages for that week.

(b) An insurance carrier may adjust a school district employee's average weekly wage as often as necessary to reflect the wages the employee reasonably could expect to earn during the period for which temporary income benefits are paid. In adjusting a school district employee's average weekly wage under this subsection, the insurance carrier may consider any evidence of the employee's reasonable expectation of earnings.

(c) For determining the amount of impairment income benefits, supplemental income benefits, lifetime income benefits, or death benefits of a school district employee under Chapter 504, the average weekly wage of the employee is computed by dividing the total amount of wages earned by the employee during the 12 months immediately preceding the date of the injury by 50.

(d) If the commission determines that computing the average weekly wage of a school district employee as provided by this section is impractical because the employee did not earn wages during the 12 months immediately preceding the date of the injury, the commission shall compute the average weekly wage in a manner that is fair and just to both parties.

(e) The commission shall adopt rules as necessary to implement this section.

SECTION 10.05. (a) Except as provided by Subsection (b) of this section, the change in law made by this article applies only to a claim for workers' compensation benefits based on a compensable injury that occurs on or after July 1, 2002. A claim based on a compensable injury that occurs

before that date is governed by the law in effect on the date the compensable injury occurred, and the former law is continued in effect for that purpose.

(b) Section 408.0446, Labor Code, as added by this article, takes effect December 1, 2001, and applies only to a claim for workers' compensation benefits based on a compensable injury that occurs on or after that date. A claim based on a compensable injury that occurs before that date is governed by the law in effect on the date that the compensable injury occurred, and the former law is continued in effect for that purpose.

ARTICLE 11. INSURANCE CARRIER INFORMATION

SECTION 11.01. Section 410.164, Labor Code, is amended by adding Subsection (c) to read as follows:

(c) At each contested case hearing, as applicable, the insurance carrier shall file with the hearing officer and shall deliver to the claimant a single document stating the true corporate name of the insurance carrier and the name and address of the insurance carrier's registered agent for service of process. The document is part of the record of the contested case hearing.

SECTION 11.02. Section 410.204, Labor Code, is amended by adding Subsection (d) to read as follows:

(d) Each final decision of the appeals panel shall conclude with a separate paragraph stating: "The true corporate name of the insurance carrier is (NAME IN BOLD PRINT) and the name and address of its registered agent for service of process is (NAME AND ADDRESS IN BOLD PRINT)."

SECTION 11.03. The change in law made by this article applies only to a workers' compensation hearing that is conducted on or after the effective date of this Act. A hearing that is conducted before that date is governed by the law in effect on the date the hearing was conducted, and the former law is continued in effect for that purpose.

ARTICLE 12. APPEAL REQUIREMENTS

SECTION 12.01. Section 410.202, Labor Code, is amended by adding Subsection (d) to read as follows:

(d) Saturdays and Sundays and holidays listed in Section 662.003, Government Code, are not included in the computation of the time in which a request for an appeal under Subsection (a) or a response under Subsection (b) must be filed.

SECTION 12.02. The change in law made by this article applies only to an appeal in a workers' compensation proceeding filed on or after the effective date of this Act. An appeal filed before the effective date of this Act is governed by the law in effect on the date the appeal was filed, and the former law is continued in effect for that purpose.

ARTICLE 13. STUDY ON DRUG-FREE WORKPLACE REQUIREMENTS

SECTION 13.01. Subchapter G, Chapter 411, Labor Code, is amended by adding Section 411.093 to read as follows:

Sec. 411.093. STUDY ON DRUG-FREE WORKPLACE: REPORT. (a) The commission shall study:

(1) the implementation and development of drug-free workplace policies under this subchapter;

(2) the use of drug-free workplace requirements adopted by other jurisdictions to reduce the adverse impact on the operation of workers'

compensation insurance systems of drug abuse and its effects in the workplace; and

(3) any other aspects of the effect of drug abuse on the operation of the workers' compensation insurance system in this state as considered appropriate by the commission or the Research and Oversight Council on Workers' Compensation.

(b) The commission shall report not later than February 1, 2003, to the legislature and the Research and Oversight Council on Workers' Compensation regarding the study conducted under this section. The report must include:

(1) any commission recommendations for legislative changes in the workers' compensation laws regarding the implementation of a drug-free workplace requirement; and

(2) an analysis of the possible effects of the adoption of a workers' compensation insurance premium discount program for employers who maintain a drug-free workplace on the operation of the workers' compensation insurance system in this state.

(c) On the request of the commission, the Texas Department of Insurance shall assist the commission in the performance of its duties under this section.

(d) This section expires September 1, 2003.

ARTICLE 14. WORKERS' COMPENSATION FOR STATE EMPLOYEES

SECTION 14.01. Section 412.012, Labor Code, is amended to read as follows:

Sec. 412.012. FUNDING. ~~[(a)]~~ The office shall be administered through money appropriated by the legislature and through ~~[(1) interagency contracts for the risk management program and (2)]~~ the allocation program for the financing of state workers' compensation benefits and risk management costs.

Sec. 412.0121. INTERAGENCY CONTRACTS. (a) ~~[(b) Interagency Contracts. (1)]~~ Each state agency shall enter into an interagency contract with the office under Chapter 771, Government Code, to pay the costs incurred by the office in administering this chapter for the benefit of that state agency.

~~(b)~~ Costs payable under the contract include the cost of:

~~(1) [(A)]~~ services of office employees;

~~(2) [(B)]~~ materials; and

~~(3) [(C)]~~ equipment, including computer hardware and software.

~~(c) [(2)]~~ The ~~[amount of the]~~ costs of risk management services provided [to be paid] by a state agency under the interagency contract shall be allocated in the same proportion and determined in the same manner as the costs of workers' compensation [is based on:

~~[(A) the number of employees of the agency compared with the total number of employees of all state agencies to which this chapter applies;~~

~~[(B) the dollar value of the agency's property and asset and liability exposure compared to that of all state agencies to which this chapter applies; and~~

~~[(C) the number and aggregate cost of claims and losses incurred by the state agency compared to those incurred by all state agencies to which this chapter applies].~~

Sec. 412.0122. STATE SELF-INSURING FOR WORKERS' COMPENSATION. ~~[(c)]~~ The state is self-insuring with respect to an employee's compensable injury. ~~[The legislature shall appropriate the amount designated by the appropriation structure for the payment of state workers' compensation claims costs to the office. This section does not affect the reimbursement of claims costs by funds other than general revenue funds, as provided by the General Appropriations Act.]~~

Sec. 412.0123. ALLOCATION OF WORKERS' COMPENSATION AND RISK MANAGEMENT COSTS; RISK REWARD PROGRAM. (a) The office shall establish a risk reward for the payment of workers' compensation claims and risk management services that are incurred by a state agency subject to Chapter 501.

(b) The office shall establish a formula for allocating the state's workers' compensation costs among covered agencies based on the claims experience of each agency, the current and projected size of each agency's workforce, each agency's payroll, the related costs incurred in administering claims, and other factors that the office determines to be relevant. The agency may provide modifiers to the formula to promote the effective implementation of risk management programs by state agencies.

(c) The board has final authority to determine the assessments to be paid by the covered agencies.

Sec. 412.0124. DEPOSIT OF WORKERS' COMPENSATION SUBROGATION RECOVERIES. ~~[(d) State Workers' Compensation Account. (†)]~~ All money recovered by the director from a third party through subrogation shall be deposited into the state workers' compensation account in general revenue.

~~[(2) Funds deposited under this section may be used for the payment of compensation and other benefits to state employees.]~~

SECTION 14.02. Section 501.001(5), Labor Code, is amended to read as follows:

(5) "Employee" means a person who is:

(A) in the service of the state pursuant to an election, appointment, or express oral or written contract of hire;

(B) paid from state funds but whose duties require that the person work and frequently receive supervision in a political subdivision of the state;

(C) a peace officer employed by a political subdivision, while the peace officer is exercising authority granted under:

(i) Article 12, Code of Criminal Procedure; or

(ii) Articles 14.03(d) and (g) [Article 14.03(e)], Code of Criminal Procedure; or

(D) a member of the state military forces, as defined by Section 431.001, Government Code, who is engaged in authorized training or duty.

SECTION 14.03. Subchapter C, Chapter 505, Labor Code, is amended by adding Section 505.060 to read as follows:

Sec. 505.060. EFFECT OF SICK LEAVE; ANNUAL LEAVE. (a) An employee may elect to use accrued sick leave before receiving income

benefits. If an employee elects to use sick leave, the employee is not entitled to income benefits under this chapter until the employee has exhausted the employee's accrued sick leave.

(b) An employee may elect to use all or any number of weeks of accrued annual leave after the employee's accrued sick leave is exhausted. If an employee elects to use annual leave, the employee is not entitled to income benefits under this chapter until the elected number of weeks of leave have been exhausted.

ARTICLE 15. INTEREST OR DISCOUNT RATE

SECTION 15.01. Section 401.023(b), Labor Code, is amended to read as follows:

(b) The commission shall compute and publish the interest and discount rate quarterly, using the treasury constant maturity ~~[auction]~~ rate ~~[quoted on a discount basis]~~ for one-year ~~[the 52-week]~~ treasury bills issued by the United States government, as published by the Federal Reserve Board on ~~[the date nearest to]~~ the 15th day preceding the first day of the calendar quarter for which the rate is to be effective, plus 3.5 percent. For this purpose, calendar quarters begin January 1, April 1, July 1, and October 1.

ARTICLE 16. PROHIBITION ON CERTAIN WAIVERS

SECTION 16.01. Section 406.033, Labor Code, is amended by adding Subsection (e) to read as follows:

(e) A cause of action described in Subsection (a) may not be waived by an employee before the employee's injury or death. Any agreement by an employee to waive a cause of action or any right described in Subsection (a) before the employee's injury or death is void and unenforceable.

ARTICLE 17. GENERAL TRANSITION; EFFECTIVE DATE

SECTION 17.01. Except as otherwise provided by this Act, this Act applies only to a claim for workers' compensation benefits based on a compensable injury that occurs on or after the effective date of this Act. A claim based on a compensable injury that occurs before that date is governed by the law in effect on the date the compensable injury occurred, and the former law is continued in effect for that purpose.

SECTION 17.02. Except as expressly provided, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. Except as otherwise provided by this Act, if this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 2600** by adding the words "for that injury" after "provider" and before "." (page 20, line 16, floor substitute)

Senate Amendment No. 3 (Senate Floor Amendment No. 3)

Amend **HB 2600**, in Sec. 408.0223, Labor Code, in SECTION 2.01 of the bill (page 27, line 8, floor substitute) by inserting the following new subsection:

"(d) The standards adopted for preferred provider networks under Article 3.70-3C, Insurance Code, as added by Chapter 1024, Acts of the 75th Legislature, Regular Session, 1997, and as subsequently amended, apply as minimum standards for insurance carrier networks and are adopted by reference in this section except to the extent those standards are inconsistent with this

subtitle. The advisory committee, defined in Sec. 408.0221 of this subtitle, may recommend additional standards for insurance carrier networks that are no more stringent than the additional standards that the advisory committee recommends for regional health care delivery networks pursuant to Sec. 408.0221(f) of this Chapter.

(e) The Texas Workers' Compensation Commission shall adopt rules, as necessary, to implement additional standards for insurance carrier networks."

Senate Amendment No. 4 (Senate Floor Amendment No. 5)

(1) In SECTION 2.01 of the bill, in proposed Subsection (b), Section 408.0221, Labor Code, add a new Subdivision (5) to read as follows and renumber accordingly:

(5) one ex officio independent actuarial expert; and

(2) In SECTION 2.01 of the bill, at the end of the proposed Section 408.0221, Labor Code, insert a new subsection (k) to read as follows:

(k) Based on the information compiled for the annual reports submitted under Subsection (h), the regional network administrators, in consultation with actuaries with whom the regional networks contract, shall determine on an annual basis any cost savings to the operation of the workers' compensation system derived from the use of the regional networks and the amount of those savings.

Senate Amendment No. 5 (Senate Floor Amendment No. 6)

Amend Floor Amendment No. 1 to **HB 2600** as follows:

1. Add new language to Section 408.0221. REGIONAL HEALTHCARE DELIVERY NETWORKS; ADVISORY COMMITTEE, page 13, line 10: after "commission." add, "The provision of health care under this subtitle shall not apply to prescription medication or services as defined by Section 401.011(19), Subsection (e), Labor Code."

Senate Amendment No. 6 (Senate Floor Amendment No. 7)

Amend **HB 2600** by striking "120 days" and replacing it with "one year" between the words "within" and "of the alleged violation." (page 22, line 16, Floor Amendment No. 1)

HB 2602 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Coleman called up with senate amendments for consideration at this time,

HB 2602, A bill to be entitled An Act relating to indigent health care.

On motion of Representative Coleman, the house concurred in the senate amendments to **HB 2602** by (Record 586): 135 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farabee; Farrar; Flores; Gallego; Garcia;

George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Smith; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Capelo; Hilbert; Junell; Smithee.

Absent — Ellis; Green; Howard; Keel; Krusee; McReynolds; Shields; Solis; Wohlgemuth.

STATEMENT OF VOTE

When Record No. 586 was taken, I was in the house but away from my desk. I would have voted yes.

Krusee

Senate Committee Substitute

CSHB 2602, A bill to be entitled An Act relating to indigent health care.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 61.006(b), Health and Safety Code, is amended to read as follows:

(b) The minimum eligibility standards must incorporate a net income eligibility level equal to 21 [25] percent of the federal poverty level based on the federal Office of Management and Budget poverty index.

SECTION 2. Section 61.032(e), Health and Safety Code, is amended to read as follows:

(e) If the county and the provider disagree on the patient's residence or eligibility, the county or the provider may submit the matter to the department as provided by Section 61.004.

SECTION 3. Section 61.0395(b), Health and Safety Code, is amended to read as follows:

(b) The department may [~~shall~~] adopt rules governing the distribution of state assistance under this chapter that establish a maximum annual allocation for each county eligible for assistance under this chapter in compliance with Subsection (a).

SECTION 4. Section 61.059(e), Health and Safety Code, is amended to read as follows:

(e) If the public hospital and the provider disagree on the patient's residence or eligibility, the hospital or the provider may submit the matter to the department as provided by Section 61.004.

SECTION 5. Sections 46.003(a) and (e), Health and Safety Code, as

added by Chapter 969, Acts of the 76th Legislature, Regular Session, 1999, are amended to read as follows:

(a) The tertiary care account is an account in the state treasury. Except as by Subsection (e), money ~~[Money]~~ in the account may be appropriated only to the department for the purposes of this chapter.

(e) For each fiscal year, five percent of the total amount in the account shall be held in reserve and may be used only for reimbursement of unpaid tertiary medical services and stabilization services provided as a result of extraordinary emergencies occurring during that year. Of the amount remaining:

(1) [;] not more than five percent may be used for the costs of administering the account;

(2) five percent shall be allocated for the payment of state assistance under Chapter 61; and

(3) the remaining amount shall be allocated as provided by Subsection (f).

SECTION 6. Section 466.408(b), Government Code, is amended to read as follows:

(b) If a claim is not made for prize money on or before the 180th day after the date on which the winner was selected, the prize money shall be deposited to the credit of the Texas Department of Health state-owned multicategorical teaching hospital account or the tertiary care facility account as follows:

(1) not more than \$40 million in prize money each biennium may be deposited to or appropriated from the Texas Department of Health state-owned multicategorical teaching hospital account, which is an account in the general revenue fund; and

(2) all prize money subject to this section in excess of \$40 million each biennium shall be deposited in the tertiary care facility account. Money deposited in the tertiary care facility account may only be appropriated to the department for purposes specified in Chapter 46 or 61, Health and Safety Code.

SECTION 7. Section 61.006(b-2), Health and Safety Code, is repealed.

SECTION 8. (a) The changes in law made by this Act to Chapter 61, Health and Safety Code, take effect September 1, 2001.

(b) Except as provided by Subsection (a) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

HR 1298 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the chair announced the introduction of **HR 1298**, suspending the limitations on the conferees for **HB 328**.

HB 2601 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Coleman called up with senate amendments for consideration at this time,

HB 2601, A bill to be entitled An Act relating to the ad valorem taxation of certain possessory interests in certain municipal property open to the public.

On motion of Representative Coleman, the house concurred in the senate amendments to **HB 2601**.

Senate Committee Substitute

CSHB 2601, A bill to be entitled An Act relating to the ad valorem taxation of certain possessory interests in certain municipal property open to the public.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Section 25.07(b), Tax Code, is amended to read as follows:

(b) Except as provided by Subsections (b) and (c) of Section 11.11 of this code, a leasehold or other possessory interest in exempt property may not be listed if:

- (1) the property is permanent university fund land;
- (2) the property is county public school fund agricultural land;
- (3) the property is a part of a public transportation facility owned by an incorporated city or town and:

(A) is an airport passenger terminal building or a building used primarily for maintenance of aircraft or other aircraft services, for aircraft equipment storage, or for air cargo;

(B) is an airport fueling system facility;

(C) is in a foreign-trade zone:

(i) that has been granted to a joint airport board under Chapter 129, Acts of the 65th Legislature, Regular Session, 1977 (Article 1446.8, Vernon's Texas Civil Statutes);

(ii) the area of which in the portion of the zone located in the airport operated by the joint airport board does not exceed 2,500 acres; and

(iii) that is established and operating pursuant to federal law; or

(D)(i) is in a foreign trade zone established pursuant to federal law after June 1, 1991, which operates pursuant to federal law;

(ii) is contiguous to or has access via a taxiway to an airport located in two counties, one of which has a population of 500,000 or more according to the federal decennial census most recently preceding the establishment of the foreign trade zone; and

(iii) is owned, directly or through a corporation organized under the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), by the same incorporated city or town which owns the airport;

- (4) the interest is in a part of:

(A) a park, market, fairground, or similar public facility that is owned by an incorporated city or town; or

(B) a convention center, visitor center, sports facility with permanent seating, concert hall, arena, or stadium that is owned by an incorporated city or town as such leasehold or possessory interest serves a

governmental, municipal, or public purpose or function when the facility is open to the public, regardless of whether a fee is charged for admission;

(5) the interest involves only the right to use the property for grazing or other agricultural purposes;

(6) the property is owned by the Texas National Research Laboratory Commission or by a corporation formed by the Texas National Research Laboratory Commission under Section 465.008(g), Government Code, and is used or is useful in connection with an eligible undertaking as defined by Section 465.021, Government Code; or

(7) the property is:

(A) owned by a municipality, a public port, or a navigation district created or operating under Section 59, Article XVI, Texas Constitution, or under a statute enacted under Section 59, Article XVI, Texas Constitution; and

(B) used as an aid or facility incidental to or useful in the operation or development of a port or waterway or in aid of navigation-related commerce.

SECTION 2. This Act takes effect January 1, 2001, and applies only to tax years that begin on or after that date.

HB 1886 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Coleman called up with senate amendments for consideration at this time,

HB 1886, A bill to be entitled An Act relating to municipal hotel occupancy taxes.

On motion of Representative Coleman, the house concurred in the senate amendments to **HB 1886** by (Record 587): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Capelo; Hilbert; Junell; Smithee.

Absent — Dukes; Ellis; Maxey; Noriega; Woolley.

STATEMENT OF VOTE

When Record No. 587 was taken, my vote failed to register. I would have voted yes.

Ellis

Senate Committee Substitute

CSHB 1886, A bill to be entitled An Act relating to municipal hotel occupancy taxes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 351.001(3)-(10), Tax Code, are amended to read as follows:

(3) [~~"Eligible municipality" means a municipality that has a population of at least 1,200,000 and that has adopted by ordinance a capital improvement plan for convention and exposition facilities for the municipality.~~]

[(4)] "Eligible coastal municipality" means a home-rule municipality that borders on the Gulf of Mexico and has a population of less than 80,000.

(4) [(5)] "Hotel" has the meaning assigned by Section 156.001 [~~156.001(1)~~].

(5) [(6)] "Tourism" means the guidance or management of tourists.

(6) [(7)] "Tourist" means an individual who travels from the individual's residence to a different municipality, county, state, or country for pleasure, recreation, education, or culture.

(7) [(8)] "Eligible central municipality" means a municipality with a population of more than 440,000 but less than 1.5 million that is located in a county with a population of one million or more and that has adopted a capital improvement plan for the expansion of an existing convention center facility.

(8) [(9)] "Visitor information center" or "tourism information center" means a building or a portion of a building used to distribute or disseminate information to tourists.

(9) [(10)] "Revenue" includes any interest derived from the revenue.

SECTION 2. Sections 351.003(b), (c), and (d), Tax Code, are amended to read as follows:

(b) [~~The rate in an eligible municipality may not exceed six percent of the price paid for a room in a hotel.~~]

[(c)] The rate in an eligible central municipality may not exceed nine percent of the price paid for a room. This subsection does not apply to a municipality to which Section ~~[351.1015 or]~~ 351.106 applies.

(c) [(d)] The rate in a municipality that borders on the Gulf of Mexico and has a population of more than 250,000 may not exceed nine percent of the price paid for a room.

SECTION 3. Sections 351.101(d)-(j), Tax Code, are amended to read as follows:

(d) [~~An eligible municipality, as defined in Section 351.001(3), Tax Code, may not contract with a private organization under Subsection (c) unless the~~]

~~contract requires the organization to select a new governing body as soon as practicable after the contract takes effect and to limit the composition of its governing body to not more than 54 members, and provides that the appointment, election, or other designation of each member of the governing body be submitted to and approved by the governing body of the municipality as long as the contract is in effect. The contract is not valid unless before the contract is executed the private organization amends its charter, bylaws, or other governing rules to conform to the requirements of this subsection.~~

~~[(e)]~~ A person with whom a municipality contracts under this section to conduct an activity authorized by this section shall maintain complete and accurate financial records of each expenditure of hotel occupancy tax revenue made by the person and, on request of the governing body of the municipality or other person, shall make the records available for inspection and review to the governing body or other person.

~~(e) [(f)]~~ Hotel occupancy tax revenue spent for a purpose authorized by this section may be spent for day-to-day operations, supplies, salaries, office rental, travel expenses, and other administrative costs only if those administrative costs are incurred directly in the promotion and servicing expenditures authorized under Section 351.101(a). If a municipal or other public or private entity that conducts an activity authorized under this section conducts other activities that are not authorized under this section, the portion of the total administrative costs of the entity for which hotel occupancy tax revenue may be used may not exceed the portion of those administrative costs actually incurred in conducting the authorized activities.

~~(f) [(g)]~~ Municipal hotel occupancy tax revenue may not be spent for travel for a person to attend an event or conduct an activity the primary purpose of which is not directly related to the promotion of tourism and the convention and hotel industry or the performance of the person's job in an efficient and professional manner.

~~[(h)]~~ The governing body of an eligible municipality, as defined in Section 351.001(3), Tax Code, may not approve the budget of a person with whom the eligible municipality enters into a contract under Subsection (c) unless the governing body first holds a public hearing to consider the proposed budget. The governing body may not hold the hearing unless notice of the hearing is published not later than the seventh day before the date of the hearing. The notice must be published in at least three newspapers having general circulation in the eligible municipality. If there are at least two newspapers having general circulation in the eligible municipality that are published daily, the notice must be published in at least two of those newspapers. If there is at least one newspaper having general circulation in the eligible municipality that is published weekly, the notice must be published in at least one of those newspapers. If there are fewer than three newspapers having general circulation in the eligible municipality, the notice must be published in every newspaper having general circulation in the eligible municipality. The notice may not be smaller than one-eighth of a page of the newspaper in which it appears and may not be published in the part of the newspaper in which legal notices and classified advertisements appear. The notice must include the purpose, date, time, and exact location of the public hearing and must clearly indicate that members of the public will be permitted to present their views at the hearing.

~~The notice must contain a summary of the proposed budget, including the name of the person whose budget is being considered, the total amount to be budgeted, and the general uses for which the budget authorizes hotel occupancy tax revenue to be spent. The hearing must be held at a location convenient to members of the general public in the downtown business district of the eligible municipality. At the hearing, the governing body must afford all interested persons an opportunity to present their views on the proposed budget and its adoption.]~~

(g) [(†)] Nothing in this section shall prohibit any private entity, person, or organization from making subgrants by contract to any other person, entity, or private organization for expenditures under Section 351.101(a)(4). A subgrantee shall:

(1) at least annually make periodic reports to the governing body of its expenditures from the tax authorized by this chapter; and

(2) make records of these expenditures available for review to the governing body or other person.

~~[(j) Subsections (d) and (h) of this section do not apply to any private entity, person, or organization that receives tax revenue under Subsection (a) of this section and makes expenditures under Paragraph (4) of Subsection (a) of this section.]~~

SECTION 4. Sections 351.102(b) and (c), Tax Code, are amended to read as follows:

~~(b) [Before an eligible municipality may issue bonds secured in whole or part by the revenue received from the tax imposed under this chapter, the municipality must certify that the average annual debt service on outstanding bonds and bonds in the process of issuance that are secured in whole or part by the tax authorized by this chapter and that were issued for purposes other than convention and exposition facilities does not exceed the maximum annual revenues that the municipality could receive from the tax imposed under this section in the absence of special provisions under this chapter that apply solely to eligible municipalities, plus any other revenue pledged to the payment of the bonds.]~~

[(c)] An eligible central municipality may pledge the revenue derived from the tax imposed under this chapter from a hotel project that is owned by or located on land owned by the municipality or by a nonprofit corporation acting on behalf of an eligible central municipality and that is located within 1,000 feet of a convention center facility owned by the municipality for the payment of bonds or other obligations issued or incurred to acquire, lease, construct, and equip the hotel and any facilities ancillary to the hotel, including shops and parking facilities. For bonds or other obligations issued under this subsection, an eligible central municipality may only pledge revenue or other assets of the hotel project benefitting from those bonds or other obligations.

SECTION 5. Sections 351.103(b) and (c), Tax Code, are amended to read as follows:

(b) Subsection (a) does not apply to a municipality in a fiscal year of the municipality if the total amount of hotel occupancy tax collected by the municipality in the most recent calendar year that ends at least 90 days before the date the fiscal year begins exceeds \$2 million. A municipality excepted from the application of Subsection (a) by this subsection shall allocate hotel

occupancy tax revenue by ordinance, consistent with the other limitations of this section. The portion of the tax revenue allocated by a ~~the~~ municipality with a population of more than 1.6 million for the purposes provided by Section ~~351.101(a)(3)~~ ~~[351.101(a)(1)]~~ may not be less than 23 ~~[exceed 75]~~ percent, except that the ~~[75 percent limitation does not apply to an eligible municipality, as defined in Section 351.001(3), Tax Code, that before October 1, 1989, adopts an ordinance providing for the]~~ allocation is subject to and may not impair the authority of the municipality to:

(1) ~~pledge all or any portion of that [of an amount in excess of 75 percent of the hotel occupancy] tax revenue to the payment of bonds as [collected by an eligible municipality for one or more specific purposes] provided by Section 351.102(a) or bonds issued to refund bonds secured by that pledge; or~~

(2) ~~spend all or any portion of that tax revenue for the payment of operation and maintenance expenses of convention center facilities [351.101(a)(1) until the ordinance is repealed or expires or until the revenue is no longer used for those specific purposes in an amount in excess of 75 percent of the tax revenue].~~

(c) Not more than 15 percent of the hotel occupancy tax revenue collected by a municipality, other than a municipality having a population of more than 1.6 million, or the amount of tax received by the municipality at the rate of one percent of the cost of a room, whichever is greater, may be used for the purposes provided by Section 351.101(a)(4). Not more than 19.30 percent of the hotel occupancy tax revenue collected by a municipality having a population of more than 1.6 million, or the amount of tax received by the municipality at the rate of one percent of the cost of a room, whichever is greater, may be used for the purposes provided by Section 351.101(a)(4). Not more than 15 percent of the hotel occupancy tax revenue collected by a municipality having a population of more than 125,000 may be used for the purposes provided by Section 351.101(a)(5). ~~[This subsection does not apply to an eligible municipality that imposes the tax authorized by this chapter at a rate that is less than seven percent of the price paid for a room in a hotel.]~~

SECTION 6. Section 351.104, Tax Code, is repealed.

SECTION 7. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

HB 2676 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Truitt called up with senate amendments for consideration at this time,

HB 2676, A bill to be entitled An Act relating to the establishment of a domestic violence fatality review team in certain counties.

On motion of Representative Truitt, the house concurred in the senate amendments to **HB 2676**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2676** as follows:

(1) In SECTION 1 of the bill, in proposed Section 93.002(a), Family Code (senate committee printing page 1, lines 49 and 50), strike "that contains two or more municipalities, each of which has a population of 250,000 or more,".

(2) In SECTION 1 of the bill, in proposed Section 93.002(d), Family Code, between "determine" and "the" (senate committee printing page 2, lines 9 and 10), insert ", to the extent necessary,".

(3) In SECTION 1 of the bill, in proposed Section 93.004, Family Code, strike Subdivision (3) of that section (senate committee printing page 2, lines 44 and 45) and substitute the following:

"(3) submit an annual report to the Department of Protective and Regulatory Services of each review conducted by the review team during the period covered by the report."

(4) In SECTION 1 of the bill, in the heading for proposed Section 93.008, Family Code, between "CONFIDENTIALITY" and the period (senate committee printing page 3, line 35), insert "; PENALTY".

(5) In SECTION 1 of the bill, between proposed Sections 93.008 and 93.009, Family Code (senate committee printing page 3, between lines 47 and 48), insert the following:

"(d) A person commits an offense if the person discloses information made confidential by this section. An offense under this subsection is a Class A misdemeanor."

(6) In SECTION 1 of the bill, strike proposed Section 93.010, Family Code (senate committee printing page 3, lines 52-58).

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 2676** as follows:

(1) On page 2, line 69 of the Senate Committee Report printing, insert "upon completion of the investigation" the following after "investigation" and before the "₁".

**HB 2691 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Madden called up with senate amendments for consideration at this time,

HB 2691, A bill to be entitled An Act relating to procedures for the electronic transfer of voter registration applications by certain voter registration agencies.

On motion of Representative Madden, the house concurred in the senate amendments to **HB 2691**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2691** as follows:

1. In section 1 of the bill, delete section 20.066(a) and substitute the following:

"(a) This section applies unilaterally to a person who resides in a county with a population of 2.1 million or more, and, if written request is made to

the Department of Public Safety by the commissioners court, applies to a person who resides in a county with a population greater than 400,000 but less than 2.1 million."

Senate Amendment No. 2 (Senate Floor Amendment No. 1)

Amend **HB 2691**, by striking SECTION 2 and substituting the following:
SECTION 2. The secretary of state shall monitor the implementation of Section 20.066, Election Code, as added by this Act, and report the secretary's findings and any recommendations to the legislature not later than December 1, 2002.

**HB 2700 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Chavez called up with senate amendments for consideration at this time,

HB 2700, A bill to be entitled An Act relating to certain services provided through telemedicine.

(Gallego in the chair)

On motion of Representative Chavez, the house concurred in the senate amendments to **HB 2700** by (Record 588): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Garcia; George; Geren; Giddings; Glaze; Goolsby; Gray; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Gallego(C).

Absent, Excused — Capelo; Hilbert; Junell; Smithee.

Absent — Goodman; Green; Grusendorf; Howard; Marchant.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2700** (Senate Committee Printing) as follows:

(1) In SECTION 1 of the bill, in proposed Section 531.02171, Government Code (page 1, lines 13 through 18), strike Subsection (a) and substitute the following:

(a) In this section:

(1) "Health professional" means:

(A) a physician;

(B) an individual who is licensed or certified in this state to perform health care services and who is authorized to assist a physician in providing telemedicine medical services that are delegated and supervised by the physician; or

(C) a licensed or certified health professional acting within the scope of the license or certification who does not perform a telemedicine medical service.

(2) "Physician" means a person licensed to practice medicine in this state under Subtitle B, Title 3, Occupations Code.

(3) "Telehealth service" means a health service, other than a telemedicine medical service, delivered by a licensed or certified health professional acting within the scope of the health professional's license or certification who does not perform a telemedicine medical service that requires the use of advanced telecommunications technology, other than by telephone or facsimile, including:

(A) compressed digital interactive video, audio, or data transmission;

(B) clinical data transmission using computer imaging by way of still-image capture and store and forward; and

(C) other technology that facilitates access to health care services or medical specialty expertise.

(4) "Telemedicine medical service" means a health care service initiated by a physician or provided by a health professional acting under physician delegation and supervision, for purposes of patient assessment by a health professional, diagnosis or consultation by a physician, treatment, or the transfer of medical data, that requires the use of advanced telecommunications technology, other than by telephone or facsimile, including:

(A) compressed digital interactive video, audio, or data transmission;

(B) clinical data transmission using computer imaging by way of still-image capture and store and forward; and

(C) other technology that facilitates access to health care services or medical specialty expertise.

(2) In SECTION 1 of the bill, in proposed Section 531.02171(b), Government Code (page 1, lines 19 through 27), strike "health care professional" in each place the phrase appears in that subsection and substitute "health professional".

(3) In SECTION 1 of the bill, in proposed Section 531.02171, Government Code, in Subsections (b) and (c) (page 1, line 19 through page 1, line 53), strike "telemedicine medical services" each place the phrase appears in that section and substitute "telemedicine medical services or telehealth services".

(4) In SECTION 1 of the bill, in proposed Section 531.0271(c)(3), Government Code (page 1, line 43), between "service" and the semicolon, insert "or telehealth service".

(5) In SECTION 1 of the bill, in proposed Section 531.0272(a), Government Code (page 1, lines 59 and 60) strike "telemedicine medical services or telehealth services pilot programs".

(6) In SECTION 1 of the bill, in proposed Section 531.02172, Government Code (page 1, line 54 through page 2, line 28), strike "telemedicine medical services" each place the phrase appears in that section and substitute "telemedicine medical services or telehealth services".

(7) In SECTION 2 of the bill, strike proposed Section 57.0471, Utilities Code (page 2, lines 31 through 37), and substitute the following:

Sec. 57.0471. GRANTS TO CERTAIN HEALTH CARE FACILITIES. (a) A health care facility providing telemedicine medical services or telehealth services and participating in a pilot program under Section 531.02171, Government Code, is eligible to receive a grant under Section 57.047.

(b) The health care facility is not eligible to receive private network services under Section 58.254(a), except with respect to a project that would have been eligible to be funded by the telecommunications infrastructure fund under this subchapter as it existed on January 1, 2001.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 2700** (Senate Committee Printing) as follows:

(1) In SECTION 1 of the bill, in proposed Section 531.02171, Government Code, insert the following new subsections:

(d) Notwithstanding an eligibility requirement prescribed by other law or rule, the commission may establish requirements for a person to participate in a pilot project under this section.

(e) Participation in the pilot project does not entitle a participant to other services under a government-funded health program.

(f) The commission may limit the number of participants of a pilot project under this section.

(2) In SECTION 2 of the bill add the following:

"SECTION 6. If before implementing any provision of this Act the Commissioner of Health and Human Services determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provisions shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted."

Renumber accordingly.

HB 2729 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Gray called up with senate amendments for consideration at this time,

HB 2729, A bill to be entitled An Act relating to allowing the donation of certain unused prescription drugs to charitable medical clinics.

On motion of Representative Gray, the house concurred in the senate amendments to **HB 2729**.

Senate Committee Substitute

CSHB 2729, A bill to be entitled An Act relating to allowing the donation of certain unused prescription drugs to charitable medical clinics.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 431, Health and Safety Code, is amended by adding Subchapter M to read as follows:

SUBCHAPTER M. DRUG DONATION PROGRAM

Sec. 431.321. DEFINITION. (a) "Charitable medical clinic" means a clinic that provides medical care without charge or for a substantially reduced charge, complies with the insurance requirements of Chapter 84, Civil Practice and Remedies Code, and is exempt from federal income tax under Section 501(a) of the Internal Revenue Code of 1986 by being listed as an exempt organization in Section 501(c)(3) or 501(c)(4) of the code and is operated exclusively for the promotion of social welfare by being primarily engaged in promoting the common good and general welfare of the people in a community.

(b) "Seller" means a person, other than a charitable drug donor, as defined in Chapter 82, Civil Practice and Remedies Code.

(c) "Manufacturer" means a person, other than a charitable drug donor, as defined in Chapter 82, Civil Practice and Remedies Code.

(d) "Charitable drug donor" means a licensed convalescent or nursing home or related institution, licensed hospice, hospital, physician, pharmacy, or a pharmaceutical seller or manufacturer that donates drugs pursuant to a qualified patient assistance program, that donates drugs to a charitable medical clinic.

(e) In this subchapter, "patient assistance program" means a qualified program offered by a pharmaceutical manufacturer under which the manufacturer provides drugs to financially disadvantaged persons at no charge or at a substantially reduced cost. The term does not include the provision of a drug as part of a clinical trial.

Sec. 431.322. DONATION OF UNUSED DRUGS TO CHARITABLE MEDICAL CLINIC. (a) A charitable drug donor may donate certain unused prescription drugs to a charitable medical clinic, and a charitable clinic may accept, dispense, or administer the donated drugs in accordance with this subchapter.

(b) A seller or manufacturer of a drug may not donate drugs to a charitable medical clinic except pursuant to a qualified patient assistance program. A seller or manufacturer of a drug that donates drugs through a qualified patient assistance program shall be considered a charitable drug donor.

(c) The charitable drug donor shall use appropriate safeguards established by the board to ensure that the drugs are not compromised or illegally diverted while being stored or transported to the charitable medical clinic.

(d) The charitable medical clinic may not accept the donated drugs unless:

(1) the charitable drug donor certifies that the drugs have been properly stored while in the possession of the donor or of the person for whom the drugs were originally dispensed;

(2) the charitable drug donor provides the clinic with a verifiable address and telephone number; and

(3) the person transferring possession of the drugs presents the charitable medical clinic with photographic identification.

Sec. 431.323. CIRCUMSTANCES UNDER WHICH DONATED DRUGS MAY BE ACCEPTED AND DISPENSED. (a) A charitable medical clinic may accept and dispense or administer donated drugs only in accordance with this subchapter.

(b) The donated drugs must be drugs that require a prescription. A donated drug may not be a controlled substance under Chapter 481.

(c) The donated drugs must be approved by the federal Food and Drug Administration and:

(1) be sealed in the manufacturer's unopened original tamper-evident packaging and either:

(A) individually packaged; or

(B) packaged in unit-dose packaging;

(2) be oral or parenteral medication in sealed single-dose containers approved by the federal Food and Drug Administration;

(3) be topical or inhalant drugs in sealed units-of-use containers approved by the federal Food and Drug Administration; or

(4) be parenteral medication in sealed multiple-dose containers approved by the federal Food and Drug Administration from which no doses have been withdrawn, and

(5) must not be the subject of a mandatory recall by a state or federal agency or a voluntary recall by a drug seller or manufacturer.

(d) The charitable medical clinic may dispense or administer the donated drugs only:

(1) before the expiration date or within the recommended shelf life of the donated drugs, as applicable; and

(2) after a licensed pharmacist has determined that the drugs are of an acceptable integrity.

(e) The donated drugs may be accepted and dispensed or administered by the charitable medical clinic only in accordance with rules adopted by the department.

Sec. 431.324. RULES. The department shall adopt rules to implement this subchapter that are designed to protect the public health and safety.

Sec. 431.325. LIMITATION ON LIABILITY. (a) Charitable drug donors, charitable medical clinics, and their employees are not liable for harm caused by the accepting, dispensing, or administering of drugs donated in strict compliance with this subchapter unless the harm is caused by:

(i) willful or wanton acts of negligence;

(ii) conscious indifference or reckless disregard for the safety of others; or

(iii) intentional conduct.

(b) This section does not limit, or in any way affect or diminish, the liability of a drug seller or manufacturer pursuant to Chapter 82, Civil Practices and Remedies Code.

(c) This section shall not apply where harm results from the failure to fully and completely comply with the requirements of this subchapter.

(d) This section shall not apply to a charitable medical clinic that fails to comply with the insurance provisions of Chapter 84, Civil Practice and Remedies Code.

SECTION 2. Section 431.021, Health and Safety Code, is amended to read as follows:

Sec. 431.021. PROHIBITED ACTS. The following acts and the causing of the following acts within this state are unlawful and prohibited:

(a) the introduction or delivery for introduction into commerce of any food, drug, device, or cosmetic that is adulterated or misbranded;

(b) the adulteration or misbranding of any food, drug, device, or cosmetic in commerce;

(c) the receipt in commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise;

(d) the distribution in commerce of a consumer commodity, if such commodity is contained in a package, or if there is affixed to that commodity a label that does not conform to the provisions of this chapter and of rules adopted under the authority of this chapter; provided, however, that this prohibition shall not apply to persons engaged in business as wholesale or retail distributors of consumer commodities except to the extent that such persons:

(1) are engaged in the packaging or labeling of such commodities; or

(2) prescribe or specify by any means the manner in which such commodities are packaged or labeled;

(e) the introduction or delivery for introduction into commerce of any article in violation of Section 431.084, 431.114, or 431.115;

(f) the dissemination of any false advertisement;

(g) the refusal to permit entry or inspection, or to permit the taking of a sample or to permit access to or copying of any record as authorized by Sections 431.042-431.044; or the failure to establish or maintain any record or make any report required under Section 512(j), (l), or (m) of the federal Act, or the refusal to permit access to or verification or copying of any such required record;

(h) the manufacture within this state of any food, drug, device, or cosmetic that is adulterated or misbranded;

(i) the giving of a guaranty or undertaking referred to in Section 431.059, which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in this state from whom the person received in good faith the food, drug, device, or cosmetic; or the giving of a guaranty or undertaking referred to in Section 431.059, which guaranty or undertaking is false;

(j) the use, removal, or disposal of a detained or embargoed article in violation of Section 431.048;

(k) the alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food, drug, device, or cosmetic, if such act is done while such article is held for sale after shipment in commerce and results in such article being adulterated or misbranded;

(l)(1) forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by rules adopted under this chapter or the regulations promulgated under the provisions of the federal Act;

(2) making, selling, disposing of, or keeping in possession, control, or custody, or concealing any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing on any drug or container or labeling thereof so as to render such drug a counterfeit drug;

(3) the doing of any act that causes a drug to be a counterfeit drug, or the sale or dispensing, or the holding for sale or dispensing, of a counterfeit drug;

(m) the using by any person to the person's own advantage, or revealing, other than to the commissioner, an authorized agent, a health authority or to the courts when relevant in any judicial proceeding under this chapter, of any information acquired under the authority of this chapter concerning any method or process that as a trade secret is entitled to protection;

(n) the using, on the labeling of any drug or device or in any advertising relating to such drug or device, of any representation or suggestion that approval of an application with respect to such drug or device is in effect under Section 431.114 or Section 505, 515, or 520(g) of the federal Act, as the case may be, or that such drug or device complies with the provisions of such sections;

(o) the using, in labeling, advertising or other sales promotion of any reference to any report or analysis furnished in compliance with Sections 431.042-431.044 or Section 704 of the federal Act;

(p) in the case of a prescription drug distributed or offered for sale in this state, the failure of the manufacturer, packer, or distributor of the drug to maintain for transmittal, or to transmit, to any practitioner licensed by applicable law to administer such drug who makes written request for information as to such drug, true and correct copies of all printed matter that is required to be included in any package in which that drug is distributed or sold, or such other printed matter as is approved under the federal Act. Nothing in this subsection shall be construed to exempt any person from any labeling requirement imposed by or under other provisions of this chapter;

(q)(1) placing or causing to be placed on any drug or device or container of any drug or device, with intent to defraud, the trade name or other identifying mark, or imprint of another or any likeness of any of the foregoing;

(2) selling, dispensing, disposing of or causing to be sold, dispensed, or disposed of, or concealing or keeping in possession, control, or custody, with intent to sell, dispense, or dispose of, any drug, device, or any container of any drug or device, with knowledge that the trade name or other identifying mark or imprint of another or any likeness of any of the foregoing has been placed thereon in a manner prohibited by Subdivision (1) of this subsection; or

(3) making, selling, disposing of, causing to be made, sold, or disposed of, keeping in possession, control, or custody, or concealing with intent to defraud any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing on any drug or container or labeling of any drug or container so as to render such drug a counterfeit drug;

(r) dispensing or causing to be dispensed a different drug in place of the drug ordered or prescribed without the express permission in each case of the person ordering or prescribing;

(s) the failure to register in accordance with Section 510 of the federal Act, the failure to provide any information required by Section 510(j) or (k) of the federal Act, or the failure to provide a notice required by Section 510(j)(2) of the federal Act;

(t)(1) the failure or refusal to:

(A) comply with any requirement prescribed under Section 518 or 520(g) of the federal Act; or

(B) furnish any notification or other material or information required by or under Section 519 or 520(g) of the federal Act;

(2) with respect to any device, the submission of any report that is required by or under this chapter that is false or misleading in any material respect;

(u) the movement of a device in violation of an order under Section 304(g) of the federal Act or the removal or alteration of any mark or label required by the order to identify the device as detained;

(v) the failure to provide the notice required by Section 412(b) or 412(c), the failure to make the reports required by Section 412(d)(1)(B), or the failure to meet the requirements prescribed under Section 412(d)(2) of the federal Act;

(w) except as provided under Subchapter M, the acceptance by a person of an unused prescription or drug, in whole or in part, for the purpose of resale, after the prescription or drug has been originally dispensed, or sold;

(x) engaging in the wholesale distribution of drugs or operating as a distributor or manufacturer of devices in this state without filing a licensing statement with the commissioner as required by Section 431.202 or having a license as required by Section 431.272, as applicable;

(y) engaging in the manufacture of food in this state without first registering with the department as required by Section 431.222; or

(z) unless approved by the United States Food and Drug Administration pursuant to the federal Act, the sale, delivery, holding, or offering for sale of a self-testing kit designed to indicate whether a person has a human immunodeficiency virus infection, acquired immune deficiency syndrome, or a related disorder or condition.

SECTION 3. Subchapter M, Chapter 431, Health and Safety Code, as added by this Act, and the change in law made by this Act to Section 431.021, Health and Safety Code, take effect January 1, 2002. This Act takes effect September 1, 2001, for the limited purpose of allowing the Texas Department of Health to adopt the rules required under Section 431.324, Health and Safety Code, as added by this Act, in time for the rules to take effect on January 1, 2002.

HB 2766 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Delisi called up with senate amendments for consideration at this time,

HB 2766, A bill to be entitled An Act relating to repayment assistance for certain education loans owed by certain state attorneys.

On motion of Representative Delisi, the house concurred in the senate amendments to **HB 2766**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2766** (Senate Committee Printing) in SECTION 1 of the bill as follows:

(1) In proposed Section 61.951, Education Code, strike "using funds appropriated for that purpose and".

(2) Strike proposed Section 61.960, Education Code, and substitute the following:

Sec. 61.960. TOTAL AMOUNT OF REPAYMENT ASSISTANCE. The total amount of repayment assistance distributed by the board under this subchapter may not exceed the total amount of gifts, grants, and donations accepted by the board for repayment assistance and tuition set aside under Section 61.961.

(3) Immediately following proposed Section 61.961, Education Code, insert the following:

Sec. 61.962. LIMITATIONS ON FUNDING. The loan repayment program under this subchapter may be funded only from:

(1) gifts, grants, and donations accepted by the board;

(2) tuition set aside under Section 61.961.

**HB 2778 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Farabee called up with senate amendments for consideration at this time,

HB 2778, A bill to be entitled An Act relating to the membership of the interagency work group on unfunded mandates on political subdivisions.

On motion of Representative Farabee, the house concurred in the senate amendments to **HB 2778**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2778** (Senate Committee Printing) as follows:

(1) In SECTION 1 of the bill, in amended Section 320.002(a), Government Code (page 1, line 23), strike the first reference to "county officer" and substitute "officer of a political subdivision".

(2) In SECTION 1 of the bill, in amended Section 320.002(a), Government Code (page 1, line 25), strike "county employee or county officer" and substitute "employee or officer of a political subdivision".

**SB 732 - HOUSE DISCHARGES CONFEREES
HOUSE APPOINTS NEW CONFEREES**

Representative Farabee called up with senate amendments for consideration at this time,

SB 732, Relating to the certification and expenditure of certain revenue not included in a county budget.

Representative Farabee moved to discharge the conferees to **SB 732** and appoint new conferees.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 732**: Farabee, chair, Ramsay, Chisum, Homer, and Hilderbran.

**HB 2787 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Kolkhorst called up with senate amendments for consideration at this time,

HB 2787, A bill to be entitled An Act relating to requiring students of institutions of higher education to obtain a vehicle emissions inspection for certain vehicles and to notifying certain students of state vehicle registration and inspection requirements.

On motion of Representative Kolkhorst, the house concurred in the senate amendments to **HB 2787**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2787** in the following manner:

Beginning on page 1, line 22, strike everything beginning with the word "of" and ending with the period on page 2, line 8, and insert the following: enrolled at the institution to park or drive a motor vehicle that is not registered in this state on institutional property unless the institution has provided written notice to the student concerning requirements for vehicle emissions inspections pursuant to Subchapter F, Chapter 548, Transportation Code.

Add the following subsection (e) at the end of SECTION 1 on page 2, line 21:

(e) Each institution of higher education that maintains a campus police force shall adopt procedures for enforcing State of Texas vehicle inspection laws for vehicles parking or driving on the campus of the institution.

HR 1299 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the chair announced the introduction of **HR 1299**, suspending the limitations on the conferees for **HB 1094**.

**HB 2794 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Eiland called up with senate amendments for consideration at this time,

HB 2794, A bill to be entitled An Act relating to the placement of dredged material on beaches adjacent to navigation inlets and channels.

On motion of Representative Eiland, the house concurred in the senate amendments to **HB 2794**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2794** as follows:

(d) The commissioner shall adopt rules requiring that beach-quality sand dredged in constructing and maintaining navigation inlets and channels of the state be placed on eroding beaches [~~adjacent to the navigation inlets and channels~~] or to restore eroding wetlands wherever practicable

**HB 2804 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Kolkhorst called up with senate amendments for consideration at this time,

HB 2804, A bill to be entitled An Act relating to certain instruments recorded to create liens on property or to show satisfaction of a judgment.

On motion of Representative Kolkhorst, the house concurred in the senate amendments to **HB 2804**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2804** (Senate Committee Printing) by striking SECTION 4 of the bill and substituting a new SECTION 4 to read as follows:

SECTION 4. This Act takes effect September 1, 2001, and applies only to an abstract of judgment filed on or after that date.

**HB 2845 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Danburg called up with senate amendments for consideration at this time,

HB 2845, A bill to be entitled An Act relating to the creation of an initiative to promote the commercialization of fuel cell technologies, including tax exemptions and reductions for certain corporations.

On motion of Representative Danburg, the house concurred in the senate amendments to **HB 2845**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2845** as follows:

(1) In SECTION 2 of the bill, (Committee Printing page 2, line 7), strike the word, "and".

(2) In SECTION 2 of the bill, (Committee Printing page 2, line 8) after subsection (5), add new subsections (6) and (7) to read as follows: (6) electric cooperatives; and (7) municipally-owned electric utilities.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 2845** as follows:

(1) Strike SECTION 3 and SECTION 4 of the bill and renumber the subsequent section appropriately.

**HB 2847 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Averitt called up with senate amendments for consideration at this time,

HB 2847, A bill to be entitled An Act relating to the authority of the Brazos River Authority to discover, develop, produce, and use groundwater in the Brazos River Basin and environs.

On motion of Representative Averitt, the house concurred in the senate amendments to **HB 2847**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2847** as follows:

On page 4, line 27, after the word "Legislature" and prior to the period insert a ";" and the following new subsection:

"(m) Nothing in this chapter shall confer to the Brazos River Authority any power under Chapter 36, Water Code to regulate the groundwater of other land owners."

Senate Amendment No. 2 (Senate Floor Amendment No. 1)

Amend **HB 2847** as follows:

(1) In SECTION 1 of the bill, insert a new Subsection as follows:

"(n) When producing groundwater, the Brazos River Authority shall be subject to all laws and regulations relating to groundwater, including but not limited to the rules and regulations of a groundwater conservation district and the Central Carrizo-Wilcox Coordinating Council."

(2) In SECTION 1 of the bill, insert a new Subsection as follows:

"(o) The Brazos River Authority is not authorized to transport or assist in the transport of groundwater pumped in the basin outside of the Brazos River basin."

**HB 2855 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Kuempel called up with senate amendments for consideration at this time,

HB 2855, A bill to be entitled An Act relating to the ratification of the creation of and to the administration, powers, duties, operation, taxing authority, and financing of the Southeast Trinity Groundwater Conservation District.

On motion of Representative Kuempel, the house concurred in the senate amendments to **HB 2855**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2855** as follows:

(1) In the SECTION of the bill relating to the board of directors, in the subsection naming the temporary directors, strike "Larry Hull" and substitute "Kenneth Fiedler, Jr."

(2) Add appropriately numbered new SECTIONS to the bill, and appropriately renumber subsequent sections of the bill, to read as follows:

SECTION _____. BONDS. The district may not issue bonds before September 1, 2004.

SECTION _____. MUNICIPALITY'S OPTION TO CHOOSE DISTRICT.

(a) If any part of a municipality, a part of which is included within the boundaries of the district, is included within the boundaries of one or more other groundwater conservation districts created by special Act of the 77th Legislature, Regular Session, 2001, and confirmed at a subsequent election called for the purpose, the municipality, not later than August 31, 2004, at an election called for the purpose, may vote to choose the one groundwater conservation district of which it will be a part.

(b) If, after a municipality has held an election authorized by Subsection (a), another groundwater conservation district created by special Act of the 77th Legislature, Regular Session, 2001, that includes any part of the municipality is confirmed at an election called for the purpose and if the district of which the municipality has chosen to be a part has not issued bonds secured by ad valorem taxes on any land within the boundaries of the municipality, the municipality may hold another election under this section to choose whether to remain within the groundwater conservation district of which it has chosen to be a part or to separate from that district and become part of the newly confirmed groundwater conservation district. The district may hold another election under this section, regardless of the number of previous elections under this section, at any time a district described by Subsection (a) is confirmed.

(c) An election under this section shall be held according to the requirements of the Election Code, except to the extent of any conflict with the requirements of this section. Section 41.001(a), Election Code, does not apply to an election under this section.

(d) This section and the results of an election held under this section prevail over the provisions of any other Act of the 77th Legislature, Regular Session, 2001, regardless of the relative dates on which this Act and the other Act may be enacted and become law.

HB 2870 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Ramsay called up with senate amendments for consideration at this time,

HB 2870, A bill to be entitled An Act relating to the authority of a commissioners court of a county to develop and administer an economic development program for making loans or grants of public money.

On motion of Representative Ramsay, the house concurred in the senate amendments to **HB 2870** by (Record 589): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Christian; Clark; Cook; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbrank.

Present, not voting — Mr. Speaker; Gallego(C).

Absent, Excused — Capelo; Hilbert; Junell; Smithee.

Absent — Coleman; Corte; Krusee; Sadler.

STATEMENT OF VOTE

When Record No. 589 was taken, I was in the house but away from my desk. I would have voted yes.

Krusee

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2870** (house engrossment) as follows:

(1) In Section 1 of the bill (page 1, line 7) strike "Subsection (f)" and substitute "Subsections (f) and (g)".

(2) In Section 1 of the bill, immediately following proposed Subsection (f) (page 1, between lines 10 and 11), add a new Subsection (g) to read as follows:

(g) The commissioners court may develop and administer a program authorized by Subsection (b) for entering into a tax abatement agreement with an owner or lessee of a property interest subject to ad valorem taxation. The execution, duration, and other terms of the agreement are governed, to the extent practicable, by the provisions of Sections 312.204, 312.205, and 312.211, Tax Code, as if the commissioners court were a governing body of a municipality.

(3) Add the following appropriately numbered section to the bill to read as follows and renumber subsequent sections of the bill appropriately:

SECTION _____. An act or proceeding of the commissioners court of a county that relates to a program described by Section 381.004(f) or (g), Local Government Code, as added by this Act, and that occurs before the effective date of this Act is validated as of the date the act or proceeding occurred.

HB 2877 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Goolsby called up with senate amendments for consideration at this time,

HB 2877, A bill to be entitled An Act relating to the operations, powers, and duties of the State Preservation Board.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of illness in the family:

Hilderbran on motion of Nixon.

HB 2877 - (consideration continued)

On motion of Representative Goolsby, the house concurred in the senate amendments to **HB 2877** by (Record 590): 138 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Flores; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Gallego(C).

Absent, Excused — Capelo; Hilbert; Hilderbran; Junell; Smithee.

Absent — Dukes; Farrar; Maxey; Sadler; Woolley.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2877** as follows:

On page 3, delete SECTION 3 (lines 5-15) and substitute in lieu thereof, SECTION 3. Section 443.023, Government Code, is amended to read as follows:

Sec. 443.023. PURCHASE AND LEASE REQUIREMENTS FOR CERTAIN EXPENDITURES. Subtitle D, Title 10, does not apply to a purchase or lease under this chapter. The executive director, as appropriate, may approve in writing the purchase or lease of goods and services needed to repair or improve an area within the Capitol, Capitol extension, Capitol grounds, or General Land Office building, if the cost of the purchase or lease will not exceed ~~\$15,000~~ \$50,000. The executive director shall notify the board in writing of any expenditure in excess of ~~\$15,000~~ \$50,000 made under this chapter.

Senate Amendment No. 2 (Senate Floor Amendment No. 1)

Amend **HB 2877** by adding the following appropriately numbered SECTIONS to the bill and renumbering existing SECTIONS of the bill appropriately:

SECTION _____. Sections 411.063(a) and (c), Government Code, are amended to read as follows:

(a) The State Preservation Board ~~[department]~~ shall adopt rules for the safe movement and the parking of vehicles in the Capitol Complex. The department shall administer and enforce the rules adopted by the preservation board and shall administer and enforce this subchapter. This subsection does not affect the authority of the department to adopt rules under Section 411.067.

(c) Rules that govern parking in the parking spaces in the capitol driveways and the parking lots and parking garages near the capitol, to the extent that parking in such places is not otherwise regulated by the State Preservation Board, shall provide for:

(1) assigning and marking reserved parking spaces for the unrestricted use of the governor, lieutenant governor, speaker of the house of representatives, and secretary of state;

(2) when the legislature is in session, assigning and marking reserved parking spaces requested by each house of the legislature for the unrestricted use of members and administrative staff of the legislature; and

(3) when the legislature is not in session, assigning and marking parking spaces requested by each house of the legislature for the use of members and administrative staff of the legislature.

SECTION _____. Section 411.065(a), Government Code, is amended to read as follows:

(a) A person commits an offense if the person violates a rule of the department adopted under Section 411.062 or a rule of the State Preservation Board adopted under Section 411.063.

SECTION _____. Rules adopted by the Department of Public Safety of the State of Texas under Section 411.063, Government Code, before the effective date of this Act are continued in effect as rules of the State Preservation Board until amended or repealed by the preservation board.

HB 2932 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative G. Lewis called up with senate amendments for consideration at this time,

HB 2932, A bill to be entitled An Act relating to a discount on the premium surcharge for a motor vehicle equipped with a breath alcohol detection device.

Representative G. Lewis moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2932**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2932**: G. Lewis, chair, Hinojosa, Keel, Hill, and Seaman.

HB 3006 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Uresti called up with senate amendments for consideration at this time,

HB 3006, A bill to be entitled An Act relating to composition of the board of directors of a tax increment reinvestment zone.

On motion of Representative Uresti, the house concurred in the senate amendments to **HB 3006**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3006** by striking all below the enacting clause and substituting the following:

Section 1. Section 311.004(a)(2), Tax Code, is amended to read as follows:

(2) create a board of directors for the zone and specify the number of directors of the board as provided by Section 311.009 or 311.0091 as applicable;

Section 2. Chapter 311, Tax Code, is amended by adding Section 311.0091 to read as follows:

Sec. 311.0091. COMPOSITION OF BOARD OF DIRECTORS OF CERTAIN REINVESTMENT ZONES. (a) This section applies to a reinvestment zone designated by a municipality which is wholly or partially located in a county with a population of less than 1.4 million in which the principal municipality has a population of 1.1 million or more.

(b) Except as provided by Subsection (c), the board of directors of a reinvestment zone consists of at least five and not more than 15 members, unless more than 15 members are required to satisfy the requirements of this subsection. Each taxing unit that approves the payment of all or part of its tax increment into the tax increment fund is entitled to appoint a number of members to the board in proportion to the taxing unit's pro rata share of the total anticipated tax increment to be deposited into the tax increment fund during the term of the zone. In determining the number of members a taxing unit may appoint to the board, the taxing unit's percentage of anticipated pro rata contributions to the tax increment fund is multiplied by the number of members of the board, and a number containing a fraction that is one-half or greater shall be rounded up to the next whole number. Notwithstanding any other provision of this subsection, each taxing unit that approves the payment of all or part of its tax increment into the tax increment fund is entitled to appoint at least one member of the board, and the municipality that designated the zone is entitled to appoint at least as many members of the board as any other participating taxing unit. A taxing unit may waive its right to appoint a director.

(c) If the zone was designated under Section 311.005(a)(5), the board of directors of the zone consists of nine members, unless a greater number of members is necessary to comply with this subsection. Each taxing unit that approves the payment of all or part of its tax increment into the tax increment fund is entitled to appoint a number of members to the board in proportion to the taxing unit's pro rata share of the total anticipated tax increment to be deposited into the tax increment fund during the term of the zone. In determining the number of members a taxing unit may appoint to the board, the taxing unit's percentage of anticipated pro rata contributions to the tax increment fund is multiplied by nine, and a number containing a fraction that is one-half or greater shall be rounded up to the next whole number. Notwithstanding any other provision of this subsection, each taxing unit that approves the payment of all or part of its tax increment into the tax increment fund is entitled to appoint at least one member of the board, and the municipality that designated the zone is entitled to appoint at least as many

members of the board as any other participating taxing unit. A taxing unit may waive its right to appoint a director. The member of the state senate in whose district the zone is located is a member of the board, and the member of the state house of representatives in whose district the zone is located is a member of the board, except that either may designate another individual to serve in the member's place at the pleasure of the member. If the zone is located in more than one senate or house district, this subsection applies only to the senator or representative in whose district a larger portion of the zone is located than any other senate or house district, as applicable.

(d) Members of the board are appointed for terms of two years unless longer terms are provided under Article XI, Section 11, of the Texas Constitution. Terms of members may be staggered.

(e) A vacancy on the board is filled for the unexpired term by appointment of the governing body of the taxing unit that appointed the director who served in the vacant position.

(f) To be eligible for appointment to the board, an individual must:

(1) be a qualified voter of the municipality; or

(2) be at least 18 years of age and own real property in the zone or be an employee or agent of a person that owns real property in the zone.

(g) Each year the board of directors of a reinvestment zone shall elect one of its members to serve as presiding officer for a term of one year. The board of directors may elect an assistant presiding officer to preside in the absence of the presiding officer or when there is a vacancy in the office of presiding officer. The board may elect other officers as it considers appropriate.

(h) A member of the board of directors of a reinvestment zone:

(1) is not a public official by virtue of that position; and

(2) unless otherwise ineligible, may be appointed to serve concurrently on the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code.

SECTION 3. Section 311.0091, Tax Code, as added by this Act, applies only to the board of directors of a tax increment reinvestment zone that is created on or after the effective date of this Act.

SECTION 4. This Act takes effect September 1, 2001.

HB 1317 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Farabee called up with senate amendments for consideration at this time,

HB 1317, A bill to be entitled An Act relating to financial security requirements for certain oil well operators.

Representative Farabee moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1317**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1317**: Farabee, chair, Hawley, Driver, R. Lewis, and Merritt.

HB 3016 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS

Representative Haggerty called up with senate amendments for consideration at this time,

HB 3016, A bill to be entitled An Act relating to the use of electronically readable information to comply with provisions of the Alcoholic Beverage Code.

Representative Haggerty moved that the house concur in the senate amendments to **HB 3016**.

Representative Hupp moved to table the motion that the house concur.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today to attend a meeting of the conference committee on **SB 2**:

T. King on motion of Raymond.

HB 3016 - (consideration continued)

A record vote was requested.

The vote of the house was taken on the motion to table the motion that the house concur in the senate amendments to **HB 3016** and the vote was announced yeas 67, nays 69.

A verification of the vote was requested and was granted.

The roll of those voting yea and nay was again called and the verified vote resulted, as follows (Record 591): 56 Yeas, 57 Nays, 2 Present, not voting.

Yeas — Berman; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chisum; Christian; Coleman; Corte; Crabb; Craddick; Davis, J.; Delisi; Denny; Driver; Eiland; Elkins; Ellis; Garcia; Giddings; Glaze; Gutierrez; Hartnett; Heflin; Hill; Hodge; Howard; Hunter; Hupp; Isett; Jones, J.; Keel; Keffer; Kuempel; Longoria; Marchant; Menendez; Morrison; Mowery; Nixon; Ramsay; Reyna, E.; Sadler; Seaman; Shields; Smith; Swinford; Talton; Telford; Truitt; Turner, B.; Turner, S.; Wohlgemuth; Woolley.

Nays — Alexander; Allen; Averitt; Bailey; Bosse; Brimer; Chavez; Counts; Danburg; Davis, Y.; Deshotel; Dukes; Dutton; Edwards; Farabee; Farrar; Flores; Geren; Gray; Grusendorf; Haggerty; Hamric; Hinojosa; Hochberg; Homer; Hope; Hopson; Jones, E.; Kolkhorst; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Naishtat; Najera; Noriega; Olivo; Pickett; Puente; Rangel; Raymond; Reyna, A.; Ritter; Solomons; Thompson; Tillery; Uher; Uresti; Villarreal; Walker; West; Yarbrough.

Present, not voting — Mr. Speaker; Gallego(C).

Absent, Excused — Capelo; Hilbert; Hilderbran; Junell; Smithee.

Absent, Excused, Committee Meeting — King, T.

Absent — Clark; Cook; Crownover; Dunnam; Ehrhardt; George;

Goodman; Goolsby; Green; Hardcastle; Hawley; Janek; Jones, D.; King, P.; Kitchen; Krusee; Lewis, G.; Lewis, R.; Maxey; Miller; Oliveira; Pitts; Salinas; Solis; Williams; Wilson; Wise; Wolens; Zbranek.

The chair stated that the motion to table was lost by the above vote.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 591. I intended to vote no.

Hunter

I was shown voting no on Record No. 591. I intended to vote yes.

E. Jones

I was shown voting yes on Record No. 591. I intended to vote no.

Keel

When Record No. 591 was taken, I was in the house but away from my desk. I would have voted yes.

Krusee

(Smithee now present)

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today because of a medical emergency:

Pitts on motion of Uher.

The following member was granted leave of absence for the remainder of today because of important business in the district:

Williams on motion of Christian.

The following members were granted leaves of absence for the remainder of today to attend a meeting of the conference committee on **SB 2**:

R. Lewis on motion of Brimer.

Counts on motion of Brimer.

T. King on motion of Brimer.

Walker on motion of Geren.

The following members were granted leaves of absence temporarily for today to attend a meeting of the conference committee on **SB 2**:

Puente on motion of Brimer.

Cook on motion of Brimer.

The following members were granted leaves of absence for the remainder of today because of important business:

Zbranek on motion of McReynolds.

Janek on motion of Allen.

D. Jones on motion of Averitt.

The following members were granted leaves of absence temporarily for today because of important business:

Hawley on motion of Pickett.

Solis on motion of Uresti.

The following member was granted leave of absence for the remainder of today to attend a graduation:

Miller on motion of Callegari.

The following member was granted leave of absence for the remainder of today to attend her son's high school graduation:

Crownover on motion of Callegari.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

HB 3016 - DIALOGUE OF PARLIAMENTARY INQUIRY

REPRESENTATIVE HUPP: Mr. Speaker?

CHAIR (Representative Gallego in the chair): Ms. Hupp, for what purpose?

HUPP: Parliamentary inquiry.

CHAIR: State your inquiry.

HUPP: Well, my understanding was that there were a number of people up there wanting to change their votes to aye and I never heard any of the changes made, was that done?

CHAIR: Ms. Hupp, the rules of the house do not provide for changing of votes on a record vote, it allows a member to enter a statement in the journal indicating that request. If you note this session when members have changed their votes, votes have been on division votes, as opposed to record votes. Because the vote on the motion to table was a record vote, the chair is not intending to allow members to change their votes; however, the members can record their statements in the journal.

HUPP: Mr. Speaker, I'm reasonably certain I just read in the rule book that, and I'm reasonably certain that in the past, that when someone comes up and says that their machine has malfunctioned and they wish to change their vote, I'm looking here at page 72, section 53, it says before the result of a vote has been finally and conclusively pronounced by the chair, but not thereafter, a member may change his or her vote, it goes to a list of various reasons why they can change it and I was aware of several people there wanting to change their vote, which would make a difference on, I think, what's a very important bill. Am I mistaken, sir? Mr. Speaker, am I mistaken that we don't even have a verification unless there's a record vote? I don't even recall ever having a verification of a vote unless it was a record vote.

CHAIR: Ms. Hupp, as I indicated, the changing of the vote is allowed on division votes when the vote is closed.

HUPP: No...

REPRESENTATIVE HILL: Parliamentary inquiry, Mr. Speaker.

CHAIR: State your inquiry, Mr. Hill.

HILL: Have any members come forward and indicated that their machines have malfunctioned and voted, showed them voting one way and they intended to vote another way?

CHAIR: Those members who have done so, Mr. Hill, have been asked to record a statement in the journal.

HILL: But that is not the procedure of this house.

REPRESENTATIVE GOOLSBY: Mr. Speaker?

CHAIR: For what purpose, Mr. Goolsby?

GOOLSBY: If the chair would so desire to call a five or six hour recess, I'll have technicians come in and check all these machines.

CHAIR: Chair appreciates the offer, Mr. Goolsby. The question now, members, occurs...

HILL: Parliamentary inquiry, Mr. Speaker.

CHAIR: Mr. Hill, state your inquiry.

HILL: Would you clarify the situation for the house, please?

CHAIR: The chair is intending to recognize Ms. Hupp for a substitute motion. Her substitute motion, the chair understands, will be to refuse to concur and go to conference. At that point, the house will again have an opportunity to vote on Ms. Hupp's motion not to concur in senate amendments to **HB 3016** and go to conference on that bill.

HILL: Parliamentary inquiry, Mr. Speaker.

CHAIR: State your inquiry, Mr. Hill.

HILL: Mr. Speaker, I've been here a few sessions and I have never seen a situation in which a member who came forward and said that their machine had malfunctioned and that they had indicated that they were voting one way and the machine indicated another, they were not allowed to change their vote. Now does this mean that from this point forward we are changing the procedure in this house?

CHAIR: Mr. Hill, the situation that you described did not occur. The chair was advised by several members that they had voted incorrectly because they did not understand the question. The chair was not advised that machines had malfunctioned.

HILL: That is a different answer than the one I had gotten earlier, so at this point the issue back before us is for final disposition, is that correct?

CHAIR: That is correct, Mr. Hill.

HILL: So, the members now will have an opportunity to vote yes or no on the concurrence?

CHAIR: No, Mr. Hill, the question, depending on Ms. Hupp, the chair is intending to recognize Ms. Hupp on a substitute motion not to concur, and go to conference.

HILL: Okay, I'd like to request a record vote on that motion.

CHAIR: You will have that opportunity, Mr. Hill.

HILL: And I'd also like to request strict enforcement.

CHAIR: Strict enforcement has been requested, strict enforcement is ordered.

HILL: Could you explain what strict enforcement means to the house?

CHAIR: Members, strict enforcement, under the rules, requires that members who are present and in their seats will only be allowed to vote, the sergeant will lock the machines of those who are not present.

HILL: Thank you, Mr. Speaker. Parliamentary inquiry, Mr. Speaker.

CHAIR: State your inquiry, Mr. Hill.

HILL: I just want to find out at what point a vote is completed. Now if you have a verification on it, would it be after the verification is completed and the vote is finally announced?

CHAIR: Mr. Hill, for purposes of clarity, would you repeat your question?

HILL: Certainly. Mr. Speaker?

CHAIR: Mr. Hill.

HILL: At what point is a vote finally concluded? When there's a verification of a vote, would that be at the conclusion of the verification when the vote is finally announced?

CHAIR: A vote is concluded when the voting is closed, A verification is used to verify those votes.

HILL: Well, obviously, a verification changes the vote in many cases. So, the vote is not closed at that point because you'd not establish a final vote until the verification is concluded. So, therefore, I would say, it would appear to me, that the vote is not concluded until the verification is concluded and the results announced.

CHAIR: Mr. Hill, again the vote is closed at the time, a vote is final at the time it is closed, and verification is used to verify that vote. Under rule, under Section 53 of Rule 5, there are certain criteria that must be met before a member will be allowed to change their vote.

HILL: Yes, sir, I read that. If you'd read the first part of that, you would, it would indicate that while the vote is still open on the floor, that the verification of a change to the vote would not change the outcome of the vote, I believe it says, I don't have it here with me, but if you'd read that. It appears that if a verification is called and the vote is being changed because

of the verification, then the vote is not concluded. And if that's the case, then a member should have the right to change their vote.

CHAIR: Mr. Hill, under Rule 5, Section 53, a member may be allowed to change their vote at a later time, provided the result of the record vote is not changed thereby. So, again for the chair...

HILL: Excuse me one second, if I may...

CHAIR: Mr. Hill?

HILL: Sure.

CHAIR: the chair is intending, the chair has ruled on this particular provision and...

HILL: I understand that.

CHAIR: ...And Mr. Hill, that provision needs to be read in conjunction with the provisions that allow a member to change their vote because of an erroneous vote.

HILL: But that is not what we were discussing at this point, but that's okay. If that's your conclusion, then I'm happy with that.

CHAIR: The entire rule must be read together, Mr. Hill.

HILL: I'm happy as long as the rules are consistent, that doesn't matter to me one way or the other, thank you.

REMARKS ORDERED PRINTED

Representative Hartnett moved to print remarks by Representative Hupp and the chair, and Representative Hill and the chair.

The motion prevailed without objection.

HB 3016 - (consideration continued)

(Speaker in the chair)

Representative Hupp offered a substitute motion that the house not concur and that a conference committee be requested to adjust the differences between the two houses on the bill.

Representative Haggerty moved to table the substitute motion.

A record vote was requested.

The motion to table was lost by (Record 592): 58 Yeas, 63 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Bosse; Brimer; Carter; Danburg; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Ehrhardt; Ellis; Farabee; Flores; Gallego; Geren; Glaze; Goodman; Goolsby; Gutierrez; Haggerty; Hinojosa; Homer; Hopson; Hunter; Keel; Kolkhorst; Kuempel; Longoria; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, J.; Moreno, P.; Naishtat; Noriega; Olivo; Rangel; Raymond; Reyna, A.; Ritter; Sadler; Solomons; Thompson; Tillery; Uher; Uresti; West; Wise; Yarbrough.

Nays — Berman; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Chisum; Christian; Clark; Corte; Crabb; Craddick; Davis, J.; Delisi; Denny;

Dutton; Edwards; Eiland; Elkins; Farrar; Garcia; George; Giddings; Grusendorf; Hamric; Hardcastle; Hartnett; Heflin; Hill; Hochberg; Hodge; Hope; Howard; Hupp; Isett; Jones, E.; Jones, J.; Keffer; King, P.; Kitchen; Lewis, G.; Marchant; Morrison; Najera; Nixon; Oliveira; Pickett; Ramsay; Reyna, E.; Seaman; Shields; Smith; Smithee; Swinford; Talton; Telford; Truitt; Turner, B.; Turner, S.; Villarreal; Wilson; Wohlgemuth; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Capelo; Crownover; Hawley; Hilbert; Hilderbran; Janek; Jones, D.; Junell; Miller; Pitts; Solis; Walker; Williams; Zbranek.

Absent, Excused, Committee Meeting — Cook; Counts; King, T.; Lewis, R.; Puente.

Absent — Chavez; Coleman; Gray; Green; Krusee; Maxey; Mowery; Salinas; Wolens.

STATEMENT OF VOTE

When Record No. 592 was taken, I was in the house but away from my desk. I would have voted yes.

Krusee

The substitute motion that the house not concur and that a conference committee be requested prevailed.

HCR 317 - ADOPTED (by Isett)

Representative Isett moved to suspend all necessary rules to take up and consider at this time **HCR 317**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 317

WHEREAS, **HB 3038** has passed the Texas House of Representatives and the Texas Senate and is now in the office of the governor; and

WHEREAS, Further consideration of the bill by the house of representatives and the senate is necessary; now, therefore, be it

RESOLVED by the 77th Legislature, That the governor be hereby requested to return **HB 3038** to the house of representatives for further consideration; and, be it further

RESOLVED, That the action of the speaker of the house of representatives and the president of the senate in signing **HB 3038** be declared null and void and that the two presiding officers be authorized to remove their signatures from the enrolled bill.

HCR 317 was adopted without objection.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for the remainder of today to attend a meeting of the conference committee on **HB 3343**:

Sadler on motion of R. Lewis.

Hochberg on motion of R. Lewis.

The following members were granted leave of absence temporarily for today to attend a meeting of the conference committee on **HB 3393**.

Marchant on motion of R. Lewis.

Tillery on motion of R. Lewis.

**HB 3037 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Hope called up with senate amendments for consideration at this time,

HB 3037, A bill to be entitled An Act relating to the regulation of spacing and production of wells by a groundwater conservation district.

On motion of Representative Hope, the house concurred in the senate amendments to **HB 3037** by (Record 593): 114 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Christian; Clark; Coleman; Corte; Crabb; Craddick; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Driver; Dukes; Dunnam; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Grusendorf; Haggerty; Hamric; Hardcastle; Hartnett; Heflin; Hill; Hinojosa; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Jones, E.; Keffer; King, P.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Longoria; Luna; Madden; McCall; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Seaman; Shields; Smith; Smithee; Solomons; Swinford; Talton; Telford; Thompson; Truitt; Turner, S.; Uher; Uresti; Villarreal; West; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough.

Present, not voting — Mr. Speaker(C); Dutton.

Absent, Excused — Capelo; Crownover; Hawley; Hilbert; Hilderbran; Janek; Jones, D.; Junell; Miller; Solis; Walker; Williams; Zbranek.

Absent, Excused, Committee Meeting — Cook; Counts; Hochberg; King, T.; Lewis, R.; Marchant; Pitts; Puente; Sadler; Tillery.

Absent — Deshotel; Garcia; Green; Gutierrez; Jones, J.; Keel; Martinez Fischer; Maxey; Merritt; Salinas; Turner, B.

STATEMENT OF VOTE

When Record No. 593 was taken, I was temporarily out of the house chamber. I would have voted yes.

Salinas

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 3037** as follows:

- (1) Page 1, line 14, after "requiring", strike "that a well" and insert "all wells to be".
- (2) Page 1, line 15, after "or", strike "adjacent" and insert "adjoining".
- (3) Page 1, line 16, after "requiring", strike "that a", and strike "well" and insert "wells".
- (4) Page 1, line 19, after "or", strike "adjacent" and insert "adjoining".
- (5) Page 1, line 20, after "(C)", strike "adopting other" and insert "imposing".
- (6) Page 1, line 20, after "requirements", insert "adopted by the board".
- (7) Page 1, line 22, after "(A)", strike "limiting total annual production" and insert "setting production limits on wells".
- (8) Page 1, line 23, after "water", strike "that may be".
- (9) Page 2, line 2, after "a", strike "maximum" and insert "defined".
- (10) Page 2, line 2, after "assigned" strike "by the district".
- (11) Page 2, line 5, after "produced", strike "a number of acres assigned by the district on an acre foot per acre or gallons per minute basis for an authorized well site" and insert "on the basis of acre feet per acre or gallons per minute per well site;
or".
- (12) Page 2, line 8, after "(E)" strike "adopting other production limits" and insert "any combination of the listed above in paragraphs (A) through (D)".

Senate Amendment No. 2 (Senate Committee Amendment No. 2)

Amend **HB 3037** as follows:

On page 2, Amend Section 36.116, Water Code by creating new subsection (c) to read as follows:

(c) In regulating the production of groundwater based on tract size or acreage, a district may consider the service area of a retail water utility. For the purposes of this subsection, "retail water utility" shall have the meaning provided at Section 13.002 of this code.

Senate Amendment No. 3 (Senate Committee Amendment No. 3)

Amend **HB 3037** as follows:

On page 2, line 29, strike lines 29 through 32, and replace with the following:

(b) In promulgating any rules limiting groundwater production, the district may preserve historic use prior to the effective date of these rules to the maximum extent practicable consistent with the district's comprehensive management plan under Section 36.1071.

**HB 3068 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Chisum called up with senate amendments for consideration at this time,

HB 3068, A bill to be entitled An Act relating to the appointment of a county auditor in certain counties.

On motion of Representative Chisum, the house concurred in the senate amendments to **HB 3068**.

Senate Committee Substitute

CSHB 3068, A bill to be entitled An Act relating to the appointment of a county auditor in certain counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 84.002, Local Government Code, is amended to read as follows:

Sec. 84.002. APPOINTMENT OF COUNTY AUDITOR. (a) In a county with a population of 10,200 [~~10,000~~] or more, the district judges shall appoint a county auditor.

(b) In a county with a population of less than 10,200 [~~10,000~~]:

(1) the district judges may appoint a county auditor if the judges determine that the county's financial circumstances warrant the appointment; and

(2) the district judges shall appoint a county auditor if:

(A) the commissioners court finds that a county auditor is necessary to carry out county business and enters an order in its minutes stating the reason for this finding;

(B) the order is certified to the district judges; and

(C) the district judges find the reason stated by the commissioners court to be good and sufficient.

SECTION 2. This Act takes effect September 1, 2001.

HB 3069 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Chisum called up with senate amendments for consideration at this time,

HB 3069, A bill to be entitled An Act relating to the maintenance of certain cemeteries.

On motion of Representative Chisum, the house concurred in the senate amendments to **HB 3069** by (Record 594): 122 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chisum; Christian; Clark; Coleman; Corte; Crabb; Craddick; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Glaze; Goodman; Gray; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Heflin; Hill; Hinojosa; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Jones, E.; Jones, J.; Keel; Keffer; King, P.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Longoria; Luna; Madden; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solomons; Swinford;

Talton; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; West; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Capelo; Crownover; Hawley; Hilbert; Hilderbran; Janek; Jones, D.; Junell; Miller; Solis; Walker; Williams; Zbranek.

Absent, Excused, Committee Meeting — Cook; Counts; Hochberg; King, T.; Lewis, R.; Marchant; Pitts; Puente; Sadler; Tillery.

Absent — Chavez; Giddings; Goolsby; Green.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 3069** by striking SECTION 1 of the bill (House engrossed version, page 1, lines 4 through 12), and substituting the following:

SECTION 1. Section 713.028, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c) Maintenance of a cemetery under Subsection (a) includes any activity necessary for the continued operation of the cemetery, including the opening and closing of graves. This subsection applies only to a county with a population of 40,000 or less.

HB 3016 - CONFERENCE COMMITTEE APPOINTED

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3016**: Haggerty, chair, Allen, Solomons, Hupp, and Hill.

HB 3076 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Smithee called up with senate amendments for consideration at this time,

HB 3076, A bill to be entitled An Act relating to the designation of a portion of Business United States Highway 287 as the L. P. "Pete" Gilvin Memorial Highway.

On motion of Representative Smithee, the house concurred in the senate amendments to **HB 3076**.

Senate Committee Substitute

CSHB 3076, A bill to be entitled An Act relating to the designation of certain state highways.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 225, Transportation Code, is amended by adding Section 225.046 to read as follows:

Sec. 225.046. L.P. "PETE" GILVIN MEMORIAL HIGHWAY. (a) The portion of Business United States Highway 287 in the municipal boundaries of Amarillo is designated as the L.P. "Pete" Gilvin Memorial Highway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the L.P. "Pete" Gilvin Memorial Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

(d) In this section, a reference to the municipal boundaries of Amarillo means those boundaries as they exist on May 1, 2001.

Sec. 225.047. G.E. "BUDDY" WEST HIGHWAY INTERCHANGE.

(a) The part of Interstate Highway 20 over Moss Avenue in Ector County is designated as the G.E. "Buddy" West Highway Interchange.

(b) The department shall design and construct markers indicating the highway number, the designation as the G.E. "Buddy" West Highway Interchange, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway interchange.

SECTION 2. This Act takes effect immediately if it receives 1-20 a vote of two-thirds of all the members elected to each house, as 1-21 provided by Section 39, Article III, Texas Constitution. If this 1-22 Act does not receive the vote necessary for immediate effect, this 1-23 Act takes effect September 1, 2001.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 3076** by striking Sec. 225.047, Transportation Code, page 1, line 26 through 33, committee printing.

HB 3088 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative S. Turner called up with senate amendments for consideration at this time,

HB 3088, A bill to be entitled An Act relating to the creation and re-creation of funds and accounts in the state treasury, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general governmental purposes.

On motion of Representative S. Turner, the house concurred in the senate amendments to **HB 3088** by (Record 595): 114 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Carter; Chisum; Christian; Clark; Coleman; Corte; Crabb; Craddick; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; Geren; Giddings; Glaze; Goolsby; Gray; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Heflin; Hill; Hinojosa; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Jones, E.; Jones, J.; Keel; Keffer; King, P.; Kitchen; Kolkhorst; Kuempel; Lewis, G.; Longoria; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Olivo; Pickett; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solomons; Swinford; Talton; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; West; Wilson; Wise; Wohlgemuth; Wolens; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Capelo; Crownover; Hawley; Hilbert; Hilderbran; Janek; Jones, D.; Junell; Miller; Solis; Walker; Williams; Zbranek.

Absent, Excused, Committee Meeting — Cook; Counts; Hochberg; King, T.; Lewis, R.; Marchant; Pitts; Puente; Sadler; Tillery.

Absent — Callegari; Chavez; Deshotel; Dunnam; George; Goodman; Green; Krusee; Maxey; Oliveira; Rangel; Yarbrough.

STATEMENTS OF VOTE

When Record No. 595 was taken, I was in the house but away from my desk. I would have voted yes.

Deshotel

When Record No. 595 was taken, I was in the house but away from my desk. I would have voted yes.

Krusee

When Record No. 595 was taken, I was in the house but away from my desk. I would have voted yes.

Oliveira

Senate Amendment No. 1 (Senate Floor Amendment No. 1 - 2nd Reading)

Amend **HB 3088** as follows:

(1) In SECTION 4 of the bill, in existing Subdivision (10) (senate committee printing, page 2, line 4), strike "and".

(2) In SECTION 4 of the bill, in existing Subdivision (11) (senate committee printing, page 2, line 7), strike the period after "1706" and substitute a semicolon.

(3) Insert the following appropriately numbered subdivisions at the end of SECTION 4 of the bill (senate committee printing, page 2, between lines 7 and 8):

() the interagency water policy account created by House Bill No. 2912 or Senate Bill No. 2;

() the environmental testing laboratory accreditation account created by House Bill No. 2912; and

() any account created by Senate Bill No. 5 and not otherwise listed in this Act, other than a trust account subject to Section 8(a) of this Act.

(4) In SECTION 5 of the bill, in existing Subdivision (4) (senate committee printing, page 2, line 21), strike "and".

(5) In SECTION 5 of the bill, in existing Subdivision (5) (senate committee printing, page 2, line 23), strike the period and substitute the following appropriately numbered subdivision:

; and

() any fund created by Senate Bill No. 5 and not otherwise listed in this Act, other than a trust fund subject to Section 8(a) of this Act.

Senate Amendment No. 2 (Senate Floor Amendment No. 2 - 2nd Reading)

Amend **HB 3088** as follows:

(1) In SECTION 4 of the bill, strike Subdivisions (2), (4), and (7) (senate committee printing, page 1, lines 51, 52, 55, 56, 61, and 62) and renumber the remaining subdivisions of SECTION 4 appropriately.

(2) In SECTION 4 of the bill, in existing Subdivision (10) (senate committee printing, page 2, lines 3 and 4), strike "House Bill No. 2776 or Senate Bill No. 1501; and" and substitute "Senate Bill No. 312;"

(3) In SECTION 4 of the bill, in existing Subdivision (11) (senate committee printing, page 2, line 7), strike the period after "1706" and substitute a semicolon.

(4) Insert the following appropriately numbered subdivisions at the end of SECTION 4 of the bill (senate committee printing, page 2, between lines 7 and 8):

() the Texas peace officer flag account created by **HB 815**;

() the special account for administrative penalties collected by the Department of Public Safety under Section 548.3065, Transportation Code, created by **HB 2134**;

() the governor for a day account created by **HB 2147**;

() the speaker's reunion day account created by **HB 2147**;

() the inaugural endowment fund created as an account by **HB 2439** or similar legislation;

() the rural volunteer fire department insurance fund created as an account by **HB 3667**;

() the water infrastructure fund created as an account by **SB 2**;

() the rural water assistance fund created as an account by **SB 2**;

() the interagency water advisory account created by **SB 2**;

() the Texas emissions reduction plan fund created as an account by **SB 5**;

() the environmental research fund created as an account by **SB 5**;

() the dedicated account established as a successor to the Texas Healthy Kids Fund by **SB 236**;

() the technology workforce development account created by **SB 353**;

() the rural physician relief program account created by **SB 516**;

() the smart jobs fund, if re-created as an account by **HB 3452** or **SB 321**;

() the child abuse and neglect prevention operating fund account created by **SB 1475**;

() the child abuse and neglect prevention trust fund account created by **SB 1475**;

() the floating cabins purchase account created by **SB 1573**; and

() the mobile amusement ride regulation account created by **SB 1622**.

(5) In SECTION 5 of the bill, between "the following funds in the state treasury" and "are recreated" (senate committee printing, page 2, line 9), insert "or funds otherwise with the comptroller".

(6) In SECTION 5 of the bill, in Subdivision (4) (senate committee printing, page 2, line 21), strike "and".

(7) In SECTION 5 of the bill, strike existing Subdivision (5) (senate committee printing, page 2, lines 22 and 23) and substitute the following:

(5) the smart jobs fund, if re-created as a fund by **HB 3452** or **SB 321**;

(8) Insert the following appropriately numbered subdivisions at the end of SECTION 5 of the bill (senate committee printing, page 2, between lines 23 and 24):

() the gas utility service assistance trust fund created by **SB 310** or similar legislation;

() the barber school tuition protection account created as a trust fund with the comptroller by **SB 660**;

() the spaceport trust fund created by **SB 813**;

() the quality assurance fund created by **SB 1839**; and

() the stabilization reserve fund re-created by **SB 1839**.

(9) In SECTION 6 of the bill, in Subdivision (2) (senate committee printing, page 2, line 33), strike "and".

(10) In SECTION 6 of the bill, in Subdivision (3) (senate committee printing, page 2, line 35), strike the period after "1109" and substitute a semicolon.

(11) Insert the following appropriately numbered subdivisions at the end of SECTION 6 of the bill (senate committee printing, page 2, between lines 35 and 36):

() all revenue dedicated to the Texas Mobility Fund by **SB 4**, **SB 342**, or similar legislation;

() all revenue dedicated to the abandoned rail account in the state highway fund by **SB 406**; and

() all revenue dedicated to the "Go Texan" partner program account by **SB 571**.

(12) In SECTION 8 of the bill, insert the following as new Subsections (c) and (d) (senate committee printing, page 2, between lines 54 and 55):

(c) Notwithstanding Subsection (a) of this section, Section 2 of this Act applies to the smart jobs rainy day fund created or re-created as a trust fund by **HB 3452** or **SB 321** and to revenue dedicated to the fund.

(d) Notwithstanding Subsection (a) of this section, Section 2 of this Act applies to the community health center revolving loan fund created by **SB 2574** and to revenue dedicated to the fund.

(13) In SECTION 13 of the bill, in Subdivision (1), strike the period after "976" and substitute the following:
; and

(2) the permanent endowment fund for the rural communities health care investment program created by **SB 126**.

(14) Add the following appropriately numbered SECTIONS to the bill and renumber existing SECTIONS of the bill appropriately:

SECTION _____. FUNDS OUTSIDE THE TREASURY. Section 2 of this Act does not apply to the following funds outside the treasury or to the dedicated revenue deposited to the credit of the funds, if created by an Act of the 77th Legislature, Regular Session, 2001, that becomes law:

(1) the Department of Public Safety Historical Museum and Research Center account created by **HB 335**;

(2) the Texas excellence fund created by **HB 1839**; and

(3) the university research fund created by **HB 1839**.

SECTION _____. SYSTEM BENEFIT FUND. (a) Sections 39.903(a) and (e), Utilities Code, are amended to read as follows:

(a) The system benefit fund is created as a trust fund with the comptroller in the state treasury ~~[and shall be administered by the commission as trustee on behalf of the recipients of money from the fund].~~

(e) Money in the [The] system benefit fund may be appropriated to ~~[shall]~~ provide funding solely for the following regulatory purposes:

(1) programs to assist low-income electric customers provided by Subsections (f)-(l);

(2) customer education programs; and

(3) the school funding loss mechanism provided by Section 39.901.

(b) The system benefit fund is re-created by this Act as a trust fund with the comptroller in the state treasury. Section 2 of this Act does not apply to the fund or to revenue dedicated to the fund.

SECTION _____. HOLDING FUND. (a) Section 204.122, Labor Code, is amended to read as follows:

Sec. 204.122. HOLDING FUND. (a) The holding fund is a dedicated account in the general revenue fund ~~[special trust fund in the custody of the comptroller separate and apart from all public money or funds of this state].~~

(b) The comptroller shall administer the holding fund in accordance with the directions of the commission, subject to legislative appropriations of money in the fund. Interest accruing on amounts in the holding fund shall be deposited quarterly to the credit of the compensation fund.

(b) Effective August 27, 2001, the holding fund is re-created as an account in the general revenue fund, and the account and the revenue deposited to the credit of the account are exempt from Section 2 of this Act.

Senate Amendment No. 3 (Senate Floor Amendment 1 - 3rd Reading)

Amend **HB 3088** in Section 6 as follows:

1. Add an appropriately numbered subsection to read as follows:

"() the revenue from administrative fees and discount and service charges dedicated by **SB 487**, relating to bid guaranties, to the state highway fund."

Senate Amendment No. 4 (Senate Floor Amendment No. 2 - 3rd Reading)

Amend **HB 3088** as follows:

(1) In SECTION 5(3) of the bill (Senate Committee Printing page 2, line 19), strike "House Bill No. 3294 or Senate Bill No. 1500" and substitute "Senate Bill No. 322".

(2) In SECTION 5(4) of the bill (Senate Committee Printing page 2, line 21), strike "House Bill No. 3294 or Senate Bill No. 1500" and substitute "Senate Bill No. 322".

Senate Amendment No. 5 (Senate Floor Amendment No. 3 - 3rd Reading)

Amend **HB 3088**, SECTION 6 (page 2, lines 24-35) by inserting the following subsection and making conforming changes as needed:

(4) the dedication of revenue by **SB 736** for the self-directed semi-independent agency pilot project.

**HB 3136 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Bosse called up with senate amendments for consideration at this time,

HB 3136, A bill to be entitled An Act relating to the statute of limitations for persons seeking damages from injury or loss caused by an error in a survey.

On motion of Representative Bosse, the house concurred in the senate amendments to **HB 3136**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3136** in SECTION 1, by striking new Section 16.011(c), Civil Practice and Remedies Code, and substituting a new Section 16.011(c), Civil Practice and Remedies Code, to read as follows:

(c) This section is a statute of repose and is independent of any other limitations period.

(Bosse in the chair)

**HB 3152 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Uresti called up with senate amendments for consideration at this time,

HB 3152, A bill to be entitled An Act relating to due process for physicians, dentists, and podiatrists in hospitals.

On motion of Representative Uresti, the house concurred in the senate amendments to **HB 3152** by (Record 596): 112 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berman; Bonnen; Brimer; Brown, B.; Brown, F.; Burnam; Carter; Chisum; Christian; Clark; Coleman; Corte; Crabb; Craddick; Danburg; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; Geren; Giddings; Glaze; Goodman; Goolsby; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Heflin; Hill; Hinojosa; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Jones, E.; Jones, J.; Keel; Keffer; King, P.; Kitchen; Kolkhorst; Kuempel; Lewis, G.; Longoria; Madden; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez;

Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Olivo; Pickett; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solomons; Swinford; Talton; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uher; Villarreal; West; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough.

Present, not voting — Mr. Speaker; Bosse(C).

Absent, Excused — Capelo; Crownover; Hawley; Hilbert; Hilderbran; Janek; Jones, D.; Junell; Miller; Solis; Walker; Williams; Zbranek.

Absent, Excused, Committee Meeting — Cook; Counts; Hochberg; King, T.; Lewis, R.; Marchant; Pitts; Puente; Sadler; Tillery.

Absent — Bailey; Callegari; Chavez; Davis, J.; Davis, Y.; Dunnam; George; Gray; Green; Krusee; Luna; Oliveira; Uresti.

STATEMENTS OF VOTE

When Record No. 596 was taken, I was in the house but away from my desk. I would have voted yes.

Krusee

When Record No. 596 was taken, I was in the house but away from my desk. I would have voted yes.

Oliveira

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3152** by striking subsections (d) and (e) and substituting the following new (d) and (e) as follows:

"(d) If a hospital's credentials committee has failed to take action on a completed application as required by Subsection (i), or a physician, podiatrist, or dentist is subject to a professional review action that may adversely affect his medical staff membership or privileges, and the physician, podiatrist, or dentist believes that mediation of the dispute is desirable, the physician, podiatrist, or dentist may require the hospital to participate in mediation as provided in Section 154, Civil Practices and Remedies Code. The mediation shall be conducted by a person meeting the qualifications required by Section 154.052, Civil Practices and Remedies Code, and within a reasonable period of time.

(e) Subsection (d) does not authorize a cause of action by a physician, podiatrist, or dentist against the hospital other than an action to require a hospital to participate in mediation."

HB 3172 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Thompson called up with senate amendments for consideration at this time,

HB 3172, A bill to be entitled An Act relating to the authority of a county to establish public improvement districts.

On motion of Representative Thompson, the house concurred in the senate amendments to **HB 3172** by (Record 597): 112 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Brimer; Brown, B.; Brown, F.; Burnam; Carter; Chisum; Christian; Clark; Coleman; Corte; Crabb; Craddick; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hefflin; Hill; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Jones, E.; Jones, J.; Keel; Keffer; King, P.; Kitchen; Kolkhorst; Kuempel; Lewis, G.; Longoria; Luna; Madden; Martinez Fischer; Maxey; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Olivo; Pickett; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solomons; Swinford; Talton; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; West; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough.

Present, not voting — Mr. Speaker; Bosse(C).

Absent, Excused — Capelo; Crownover; Hawley; Hilbert; Hilderbran; Janek; Jones, D.; Junell; Miller; Solis; Walker; Williams; Zbranek.

Absent, Excused, Committee Meeting — Cook; Counts; Hochberg; King, T.; Lewis, R.; Marchant; Pitts; Puente; Sadler; Tillery.

Absent — Callegari; Chavez; Dunnam; Ehrhardt; Gallego; Gray; Green; Hinojosa; Krusee; McCall; Menendez; Oliveira; Ramsay.

STATEMENTS OF VOTE

When Record No. 597 was taken, I was in the house but away from my desk. I would have voted yes.

Krusee

When Record No. 597 was taken, I was in the house but away from my desk. I would have voted yes.

Menendez

When Record No. 597 was taken, I was in the house but away from my desk. I would have voted yes.

Oliveira

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Add the following language in Section 12 of **HB 3172**:

Amend Section 372.014(a), Local Government Code to read as follows:

(a) An assessment Plan must provide that at least 10% of the cost of an improvement be paid by special assessments against property in the improvement district. The assessment plan must be included in the annual service plan.

Amend Section 16 by inserting the following sentence just prior to the final sentence of Section 16:

"Delinquent installments of the assessment shall incur interest, penalties and attorneys' fees in the same manner as delinquent ad valorem taxes."

Senate Amendment No. 2 (Senate Committee Amendment No. 2)

Add the following language in Section 372.003(d), Local Government Code of **HB 3172**:

A county may establish a public improvement district unless within 30 days of a county's action to approve such a district, a home rule municipality objects to its establishment within the municipality's corporate limits or extraterritorial jurisdiction.

**HB 3181 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Danburg called up with senate amendments for consideration at this time,

HB 3181, A bill to be entitled An Act relating to information concerning registered voters.

On motion of Representative Danburg, the house concurred in the senate amendments to **HB 3181**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 3181** (Engrossed printing) as follows:

On page 2, line 5, after the word "week" insert the following ", on a day specified by the Secretary of State,".

On page 2, line 27, after the work "week" insert the following ", on a day specified by the Secretary of State".

On page 4, line 24, after the word "week," insert the following ", on a day specified by the Secretary of State,"

**HB 3194 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Howard called up with senate amendments for consideration at this time,

HB 3194, A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Fort Bend County Levee Improvement District Number 16 and to the authorization of bonds and the levy of taxes; providing civil penalties.

On motion of Representative Howard, the house concurred in the senate amendments to **HB 3194** by (Record 598): 112 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chisum; Christian; Clark; Coleman; Corte; Crabb; Craddick; Danburg; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goolsby; Gray; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hill; Hinojosa; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Jones, E.; Jones, J.; Keel; Keffer; King, P.; Kitchen; Kolkhorst; Kuempel; Lewis, G.; Longoria; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez;

Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Olivo; Pickett; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solomons; Swinford; Talton; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough.

Present, not voting — Mr. Speaker; Bosse(C).

Absent, Excused — Capelo; Crownover; Hawley; Hilbert; Hilderbran; Janek; Jones, D.; Junell; Miller; Solis; Walker; Williams; Zbranek.

Absent, Excused, Committee Meeting — Cook; Counts; Hochberg; King, T.; Lewis, R.; Marchant; Pitts; Puente; Sadler; Tillery.

Absent — Chavez; Davis, J.; Dunnam; Dutton; Farrar; Goodman; Green; Heflin; Krusee; Maxey; Oliveira; West; Wilson.

STATEMENTS OF VOTE

When Record No. 598 was taken, I was in the house but away from my desk. I would have voted yes.

Krusee

When Record No. 598 was taken, I was in the house but away from my desk. I would have voted yes.

Oliveira

Senate Committee Substitute

CSHB 3194, A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Fort Bend County Levee Improvement District Number 16 and to the authorization of bonds and the levy of taxes; providing civil penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. GENERAL PROVISIONS

SECTION 1.01. CREATION. (a) A levee improvement district, to be known as Fort Bend County Levee Improvement District Number 16, is created. The district is a governmental agency and a body politic and corporate.

(b) The district is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

(c) The district has the powers of a levee improvement district as provided by Chapter 57, Water Code, and is governed by Chapters 49 and 57, Water Code, unless otherwise provided by this Act.

SECTION 1.02. DEFINITIONS. In this Act:

(1) "Board" means the board of directors of the Fort Bend County Levee Improvement District Number 16.

(2) "Commissioners court" means the Fort Bend County Commissioners Court.

(3) "County" means Fort Bend County.

(4) "District" means the Fort Bend County Levee Improvement District Number 16.

SECTION 1.03. BOUNDARIES. (a) The district includes the territory contained within the following area:

Being 2316.899 acres of land located in the M.M. Battle League, Abstract 9 and the Alexander Hodges League Abstract 32, Fort Bend County, Texas, more particularly being all of those certain tracts called 389.137, 282.759 and 960.718 acres described as Exhibit A-6, Exhibit A-7 and Exhibit A-9, respectively, and a portion of that certain tract called 1093.65 acres, described as Exhibit A-8, all conveyed to The State of Texas, State Department of Highways and Public Transportation by an instrument of record in Volume 2329, Page 50 of the Official Records of Fort Bend County, Texas (F.B.C.O.R.), said 2321.591 acres being more particularly described in two (2) parts by metes and bounds as follows (all bearings based on the Texas State Plane Coordinate System, South Central Zone);

PART 1

1651.115 ACRES

BEGINNING at the intersection of the east line of the aforementioned 389.137 acres described as Exhibit A-6 and the proposed southerly right-of-way line of Texas State Highway No. 6 (S.H. 6) (width varies);

Thence, South 01°50'42" East, 7190.30 feet to a point for corner in the northerly right-of-way line of U.S. 59 (width varies);

Thence, with said northerly right-of-way line of U.S. 59 the following eighteen (18) courses:

- 1) South 52°31'20" West, 1040.87 feet to a point for corner;
 - 2) South 48°11'45" West, 187.66 feet to a point for corner;
 - 3) South 52°31'25" West, 848.96 feet to a point for corner;
 - 4) South 74°54'21" West, 252.91 feet to a point for corner;
 - 5) South 86°11'04" West, 495.72 feet to a point for corner;
 - 6) North 49°03'57" West, 35.29 feet to a point for corner;
 - 7) South 86°00'42" West, 160.00 feet to a point for corner;
 - 8) South 28°16'44" West, 33.59 feet to a point for corner, the beginning of a curve whose center bears South 11°45'03" East;
 - 9) 605.23 feet along the arc of a curve to the left having a radius of 423.00 feet, a central angle of 81°58'45" and a chord which bears South 37°15'34" West, 554.91 feet to a point for corner at the end of said curve;
 - 10) South 03°40'10" East, 10.57 feet to a point for corner, the beginning of a curve whose center bears South 86°11'10" West;
 - 11) 521.28 feet along the arc of a curve to the right having a radius of 875.69 feet, a central angle of 34°06'26" and a chord which bears South 13°14'23" West, 513.62 feet to a point for corner at the end of said curve;
 - 12) South 52°29'44" West, 925.05 feet to a point for corner;
 - 13) South 52°29'36" West, 435.64 feet to a point for corner;
 - 14) South 57°03'57" West, 199.79 feet to a point for corner;
 - 15) South 52°30'48" West, 1944.36 feet to a point for corner;
 - 16) South 50°57'50" West, 904.84 feet to a point for corner;
 - 17) South 54°07'20" West, 1094.20 feet to a point for corner;
 - 18) South 52°33'57" West, 329.02 feet to a point for corner;
- Thence, North 03°12'03" West, 3818.53 feet to a point for corner;
- Thence, North 86°36'48" East, 1806.43 feet to a point for corner;

Thence North $03^{\circ}32'23''$ West, 9500.81 feet to a point for corner in the southerly right-of-way line of U.S. Highway No. 90-A;

Thence, with said southerly right-of-way line of U.S. Highway No. 90-A the following eight (8) courses:

1) North $65^{\circ}39'06''$ East, 256.30 feet to a point for corner, the beginning of a curve whose center bears North $24^{\circ}31'32''$ West;

2) 680.54 feet along the arc of a curve to the left having a radius of 6043.20 feet, a central angle of $06^{\circ}27'08''$ and a chord which bears North $62^{\circ}24'54''$ East, 680.18 feet to a point for corner;

3) North $59^{\circ}11'59''$ East, 1248.35 feet to a point for corner;

4) North $68^{\circ}00'20''$ East, 590.07 feet to a point for corner;

5) North $74^{\circ}12'26''$ East, 439.68 feet to a point for corner;

6) North $80^{\circ}01'35''$ East, 189.98 feet to a point for corner;

7) North $86^{\circ}16'10''$ East, 499.86 feet to a point for corner;

8) South $84^{\circ}07'12''$ East, 296.42 feet to a point for corner, the beginning of a curve whose center bears North $45^{\circ}54'16''$ East, said point being in the aforementioned proposed southerly right-of-way line of S.H. 6;

Thence, with said proposed southerly right-of-way line of S.H. 6 the following eleven (11) courses;

1) 417.214 feet along the arc of a curve to the left having a radius of 1954.86 feet, a central angle of $12^{\circ}13'45''$ and a chord which bears South $50^{\circ}12'36''$ East, 416.45 feet to a point for corner at the end of said curve;

2) South $55^{\circ}56'26''$ East, 752.00 feet to a point for corner, the beginning of a curve whose center bears North $36^{\circ}23'44''$ East;

3) 116.03 feet along the arc of a curve to the left having a radius of 2844.79 feet, a central angle of $02^{\circ}20'13''$ and a chord which bears South $54^{\circ}46'22''$ East, 116.02 feet to a point for corner;

4) South $48^{\circ}54'25''$ East, 174.14 feet to a point for corner;

5) South $52^{\circ}44'28''$ East, 316.76 feet to a point for corner;

6) South $07^{\circ}44'31''$ East, 31.13 feet to a point for corner;

7) South $62^{\circ}33'17''$ East, 162.37 feet to a point for corner;

8) North $84^{\circ}27'47''$ East, 27.26 feet to a point for corner, the beginning of a curve whose center bears North $36^{\circ}36'08''$ East;

9) 288.78 feet along the arc of a curve to the left having a radius of 2897.80 feet, a central angle of $05^{\circ}42'35''$ and a chord which bears South $56^{\circ}15'10''$ East, 288.66 feet to a point for corner at the end of said curve;

10) South $59^{\circ}06'29''$ East, 683.96 feet to a point for corner, the beginning of a curve;

11) 185.98 feet along the arc of a tangent curve to the right having a radius of 2844.79 feet, a central angle of $03^{\circ}44'45''$ and a chord which bears South $57^{\circ}14'05''$ East, 185.95 feet to the POINT OF BEGINNING and containing 1651.115 acres of land.

PART 2 670.476 ACRES

BEGINNING at the intersection of the east line of the aforementioned 1093.65 acres described as Exhibit A-8 and the southerly right-of-way line of aforementioned U.S. 59 from which the southeast corner of the above described Part 1 bears North $01^{\circ}53'45''$ West, 550.74 feet;

Thence, South $01^{\circ}50'42''$ East, 3087.21 feet to a point for corner;

Thence, North $87^{\circ}11'58''$ East, 619.44 feet to a point for corner;

Thence, South $01^{\circ}55'19''$ East, 4421.32 feet to a point for corner;

Thence, South $88^{\circ}02'21''$ West, 300.99 feet to a point for corner;

Thence, South $01^{\circ}51'04''$ East, 976.57 feet to a point for corner, the beginning of a curve whose center bears North $37^{\circ}15'45''$ East;

Thence, 1227.88 feet along the arc of a curve to the right having a radius of 2891.80 feet, a central angle of $24^{\circ}19'42''$ and a chord which bears North $40^{\circ}34'24''$ West, 1218.68 feet to a point for corner at the end of said curve;

Thence, North $28^{\circ}24'33''$ West, 378.96 feet to a point for corner;

Thence, North $54^{\circ}53'42''$ West, 516.66 feet to a point for corner;

Thence, North $70^{\circ}18'35''$ West, 1318.58 feet to a point for corner;

Thence, North $78^{\circ}25'45''$ West, 966.06 feet to a point for corner;

Thence, South $89^{\circ}02'49''$ West, 2421.07 feet to a point for corner;

Thence, North $77^{\circ}32'21''$ West, 496.91 feet to a point for corner;

Thence, North $33^{\circ}55'33''$ West, 888.23 feet to a point for corner;

Thence, North $79^{\circ}49'48''$ West, 442.63 feet to a point for corner;

Thence, North $42^{\circ}56'06''$ West, 75.28 feet to a point for corner in the aforementioned southerly right-of-way line of U.S. 59;

Thence, with said southerly right-of-way line of U.S. 59 the following sixteen (16) courses:

1) North $50^{\circ}57'50''$ East, 1689.20 feet to a point for corner;

2) North $52^{\circ}30'48''$ East, 1921.22 feet to a point for corner;

3) North $57^{\circ}03'57''$ East, 199.96 feet to a point for corner;

4) North $52^{\circ}29'36''$ East, 453.80 feet to a point for corner;

5) North $52^{\circ}29'44''$ East, 400.00 feet to a point for corner;

6) North $76^{\circ}03'27''$ East, 339.22 feet to a point for corner;

7) North $86^{\circ}05'07''$ East, 374.89 feet to a point for corner;

8) South $49^{\circ}10'00''$ East, 35.51 feet to a point for corner;

9) North $86^{\circ}05'08''$ East, 150.00 feet to a point for corner;

10) North $40^{\circ}50'00''$ East, 35.20 feet to a point for corner;

11) North $86^{\circ}05'08''$ East, 31.60 feet to a point for corner, the beginning of a curve;

12) 663.95 feet along the arc of a tangent curve to the left having a radius of 423.00 feet, a central angle of $89^{\circ}56'00''$ and a chord which bears North $41^{\circ}07'08''$ East, 597.86 feet to a point for corner;

13) North $03^{\circ}52'55''$ West, 10.00 feet to a point for corner, the beginning of a curve whose center bears North $86^{\circ}14'21''$ East;

14) 576.71 feet along the arc of a curve to the right having a radius of 877.19 feet, a central angle of $37^{\circ}40'10''$ and a chord which bears North $15^{\circ}04'26''$ East, 566.38 feet to a point for corner at the end of said curve;

15) North $52^{\circ}31'23''$ East, 1291.14 feet to a point for corner;

16) North $51^{\circ}33'03''$ East, 886.94 feet to the POINT OF BEGINNING and containing 670.476 acres of land.

Said Part 1 and Part 2 containing a total of 2321.591 acres of land.

(b) A mistake in the patents or field notes or in copying the patents or field notes in the legislative process does not affect the organization, existence, or validity of the district, the right of the district to issue bonds or refunding bonds or to pay the principal of or interest on issued bonds, the right of the

district to levy and collect taxes, or the legality or operation of the district or its governing board.

ARTICLE 2. ADMINISTRATIVE PROVISIONS

SECTION 2.01. BOARD. (a) The district is governed by a board of three directors appointed by the commissioners court.

(b) Except for initial directors, directors serve staggered four-year terms, with the terms of one or two directors expiring September 1 of each even-numbered year.

(c) Initial directors shall serve until permanent directors are appointed under Section 2.04 of this Act and qualified as required by Subsection (e) of this section.

(d) A director serves until the director's successor has qualified as required by Subsection (e) of this section.

(e) A director must qualify to serve as required by Section 49.055, Water Code.

SECTION 2.02. DIRECTOR ELIGIBILITY. (a) Except for initial directors, a person must meet the requirements of Section 57.059, Water Code, to be eligible to serve as a director. A person must be at least 18 years of age and a resident of Fort Bend County or Travis County to be eligible to serve as an initial director.

(b) Notwithstanding Section 49.052, Water Code, employment with a state agency, other than the Texas Department of Transportation, the General Land Office, or the School Land Board, does not disqualify a person from serving as a director.

(c) An employee of the district may not serve as a director.

SECTION 2.03. APPOINTMENT OF INITIAL DIRECTORS. (a) The School Land Board shall appoint three initial directors as soon as practicable after the effective date of this Act. The School Land Board shall appoint one initial director to serve a term expiring September 1, 2002, and two initial directors to serve terms expiring September 1, 2004.

(b) If a vacancy occurs, the School Land Board shall appoint a successor to fill the vacancy and to serve the remainder of the unexpired term.

SECTION 2.04. APPOINTMENT OF PERMANENT DIRECTORS. The commissioners court shall appoint one permanent director to serve a four-year term beginning September 1, 2002, and two permanent directors to serve four-year terms beginning September 1, 2004. Every subsequent second year, the commissioners court shall appoint the appropriate number of directors.

SECTION 2.05. MEETINGS AND BOARD ACTIONS. (a) The board may establish regular meetings to conduct the business of the district and may hold special meetings if necessary as determined by the board. The board shall hold a meeting under this section within the district unless the board, by a majority vote at a public meeting, decides to hold the meeting outside of the district.

(b) The board may adopt bylaws to govern the affairs of the district.

SECTION 2.06. APPOINTMENT OF BOARD SECRETARY AND TREASURER. The board shall appoint a secretary and treasurer. The secretary and treasurer may be, but are not required to be, members of the board. One person may serve as both secretary and treasurer.

SECTION 2.07. CONFLICT OF INTEREST: CONTRACT. A director who is financially interested in a contract that is proposed to be executed by the board for the purchase of property or services or for the construction of facilities shall disclose the director's interest to the board and may not vote on the acceptance of the contract.

SECTION 2.08. DISTRICT EMPLOYEES. The board may employ a general manager and consulting engineers, financial consultants, attorneys, and auditors. The general manager shall be responsible for:

- (1) administering the board's directives;
- (2) maintaining district records, including minutes of board meetings;
- (3) coordinating with federal, state, and local agencies;
- (4) developing plans and programs for the board's approval;
- (5) hiring, supervising, training, and discharging the district's employees;
- (6) obtaining technical, scientific, legal, fiscal, or other professional services for the district; and
- (7) performing other duties as assigned by the board.

SECTION 2.09. EMPLOYEE BONDS. (a) The general manager and each employee of the district who is charged with the collection, custody, or payment of district money shall execute a fidelity bond in an amount determined by the board and in a form and with a surety approved by the board.

- (b) The district shall pay the premium on a bond under this section.

SECTION 2.10. PRINCIPAL OFFICE. (a) If the district has not issued bonds, the district may maintain its principal office in Fort Bend County or Travis County. If the district maintains its principal office in Travis County, the district shall maintain duplicates of district records in Fort Bend County and make the duplicate records available for inspection during regular business hours.

- (b) If the district has issued bonds, the district shall maintain its principal office in Fort Bend County.

SECTION 2.11. RECORDS. (a) The district shall keep at its principal office:

- (1) a complete and accurate account of the district's business transactions in accordance with generally accepted accounting methods;
 - (2) a complete and accurate record of the minutes of board meetings;
- and

- (3) contracts, documents, and other records of the district.

- (b) The district shall permit reasonable public inspection of the district's records during regular business hours.

ARTICLE 3. AUTHORITY OF DISTRICT

SECTION 3.01. POWERS AND DUTIES. The district shall administer and enforce the provisions of this Act and use the facilities and powers of the district to accomplish the purposes of this Act and Chapter 57, Water Code.

SECTION 3.02. DISTRICT RULES. (a) The district may adopt and enforce rules reasonably required to implement this Act, including rules governing procedure and practice before the board.

- (b) The district shall keep a record of the district's rules and provide a copy of the rules to a person on written request.

SECTION 3.03. INSPECTIONS AND INVESTIGATIONS. In addition to the powers provided by Section 49.221, Water Code, the district may enter public or private property located within the district for purposes of inspecting and investigating conditions of the property relating to the district's authorized purposes. The district shall conduct an inspection or investigation in accordance with provisions and restrictions applicable to the Texas Natural Resource Conservation Commission.

SECTION 3.04. HEARINGS AND ORDERS. (a) The board may:

(1) hold hearings, receive evidence from a party in interest who appears before the board, and make findings of fact and determinations relating to the administration of this Act or an order or rule of the board; and

(2) delegate the authority to take testimony and administer oaths in a hearing held by the district to a member of the board or an employee of the district.

(b) An order of the board must:

(1) be in the name of the district; and

(2) be attested to by the appropriate members of the board under the district's rules.

SECTION 3.05. CIVIL PENALTY; INJUNCTION. (a) A person who violates a rule, permit, or order of the district is subject to a civil penalty in accordance with Chapter 49, Water Code.

(b) The district may sue to enjoin a threatened or present activity or to recover the penalty in a district court in the county in which the violation occurred. A penalty recovered under this subsection shall be paid to the district.

SECTION 3.06. FACILITIES. In addition to the authority provided by Section 49.218, Water Code, the district may purchase, construct, acquire, own, lease, operate, maintain, repair, improve, and extend, at any location within or outside of the district, land, or an interest in land, a work, an improvement, a facility, a plant, equipment, or an appliance that is incident, helpful, or necessary to accomplish the purposes of the district.

SECTION 3.07. USE OF PUBLIC ROADWAYS, STREETS, ALLEYS, OR EASEMENTS. The district may use a public roadway, street, alley, or easement in Fort Bend County to accomplish the purposes of the district. The district is not required to obtain a franchise or other governmental agreement to use a roadway, street, alley, or easement that is owned by a city if, before using the roadway, street, alley, or easement, the district obtains written consent of the city to the particular use. The district is not required to pay a fee to a city for the use of the roadway, street, alley, or easement.

SECTION 3.08. RELOCATION OF FACILITIES. The district may relocate, raise, reroute, or change the grade of, or alter the construction of, a highway, railroad, electric transmission line, pipeline, canal, or drainage ditch, if considered necessary by the board. The district shall pay for any relocation, raising, rerouting, changing, or altering under this section, unless otherwise agreed in writing by the interested parties.

ARTICLE 4. GENERAL FISCAL PROVISIONS

SECTION 4.01. DISBURSEMENT OF MONEY. The district may disburse money only by check, draft, order, or other instrument signed by a person authorized in the bylaws of the district or by board resolution.

SECTION 4.02. LOANS AND GRANTS. The district may apply for and receive a loan or grant from the state or the United States, or any agency of the state or the United States, or from a private entity, for purposes of exercising the powers of the district.

SECTION 4.03. DEPOSITORY BANKS. (a) A bank is not disqualified from being a depository under this section because an officer or a director of the bank is a member of the board.

(b) An officer or a director of a bank is not disqualified from being a member of the board.

(c) Subject to Sections 49.156 and 49.157, Water Code, the board may designate a bank as depository on terms that the board finds proper.

ARTICLE 5. BOND AND TAX PROVISIONS

SECTION 5.01. TAXES; REVENUE BONDS. (a) For purposes of exercising the authority of the district as provided by this Act, the district may issue bonds or other obligations that are:

- (1) secured by ad valorem taxes;
- (2) secured by a pledge of all or part of the revenues accruing to the district, other than ad valorem taxes; and
- (3) secured by both a pledge of all or part of the revenues described by Subdivision (2) of this subsection and ad valorem taxes.

(b) An obligation issued by the district shall be authorized by resolution of the board, issued in the name of the district, signed by the president or vice president, attested to by the secretary, and bear the seal of the district. The signatures of the president or vice president and the secretary may be printed or lithographed on the obligation. The seal of the district may be impressed, printed, or lithographed on the obligation. An obligation issued by the district:

- (1) shall be in a form prescribed by the board;
 - (2) may be in any denomination;
 - (3) shall mature serially or otherwise not later than 50 years from the date of issuance;
 - (4) may bear any interest rate;
 - (5) may be sold at a price and under terms determined by the board to be the most advantageous available;
 - (6) may, in the discretion of the board, be made callable before maturity at times and prices as provided in the obligation;
 - (7) may be made registrable as to principal or principal and interest;
- and
- (8) may be secured by an indenture of trust with a corporate trustee.

(c) An obligation under this section may be issued in more than one series as required to carry out the purposes of this Act. A pledge of revenue may reserve the right to issue additional obligations under conditions specified on the pledge. An additional obligation is on a parity with or subordinate to the original obligation.

(d) The district is an issuer for purposes of Chapter 1371, Government Code.

(e) A board resolution authorizing an obligation or a trust indenture under this section may include additional terms to provide for a corporate trustee or receiver to take possession of facilities of the district in the event of

default by the district relating to the obligation or trust indenture. The additional terms, if any, constitute a contract between the district and the owner of the obligation.

(f) The district may not issue bonds that are secured by or otherwise encumber permanent school fund land located within the district.

SECTION 5.02. BOND ANTICIPATION NOTES. The district may issue bond anticipation notes for purposes of exercising the powers of the district. Bond anticipation notes may be secured by a pledge of all or part of the revenues of the district. The district may authorize the issuance of bonds to pay the principal of and interest on bond anticipation notes issued under this section. Bond anticipation notes shall be secured by a pledge of all or part of the revenues of the district and may be issued on a parity with or subordinate to outstanding bonds of the issuer. If the resolution or trust agreement authorizing the issuance of bond anticipation notes contains a covenant that the notes are payable from the proceeds of subsequently issued bonds, the district is not required to demonstrate that the revenues that may be pledged to the notes are sufficient to pay the principal of and interest on the notes for purposes of receiving approval of the attorney general or registration by the comptroller.

SECTION 5.03. REFUNDING BONDS. (a) The district may issue refunding bonds to refund outstanding bonds and interest as authorized by this Act.

(b) Refunding bonds may:

- (1) be issued to refund one or more series of outstanding bonds;
- (2) combine the pledges for the outstanding bonds for the security of the refunding bonds; or
- (3) be secured by additional revenues.

(c) Refunding bonds may be issued without holding an election to authorize the issuance of the bonds.

(d) Refunding bonds shall be registered by the comptroller on surrender and cancellation of the bonds to be refunded or, if the resolution authorizing the issuance of refunding bonds provides that the bonds shall be sold and the proceeds deposited in the bank where the bonds to be refunded are payable, the refunding bonds may be issued in an amount sufficient to pay the principal and interest of the bonds to be refunded to their option or maturity date. The comptroller shall register the refunding bonds without concurrent surrender and cancellation of the bonds to be refunded.

ARTICLE 6. MISCELLANEOUS PROVISIONS

SECTION 6.01. TAX EXEMPTION. The purposes stated in this Act are for the benefit of the people of the state, including the improvement of property and industry. The district, in carrying out the purposes of this Act, is performing an essential public function under the constitution and is not required to pay a tax or assessment on a project of the district or on the bonds or notes issued by the district under this Act, including the transfer of, the income from, and the profits made on the sale of issued bonds and notes.

SECTION 6.02. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS. (a) The proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have

been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and other laws of this state, including the governor, who has submitted the notice and Act to the Texas Natural Resource Conservation Commission.

(b) The Texas Natural Resource Conservation Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(c) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 6.03. EFFECTIVE DATE. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

HB 3195 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Howard called up with senate amendments for consideration at this time,

HB 3195, A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Fort Bend County Municipal Utility District Number 134 and to the authorization of bonds and the levy of taxes; providing civil penalties.

On motion of Representative Howard, the house concurred in the senate amendments to **HB 3195** by (Record 599): 115 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chisum; Christian; Clark; Coleman; Corte; Crabb; Craddick; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goolsby; Gray; Grusendorf; Haggerty; Hamric; Hardcastle; Hartnett; Heflin; Hill; Hinojosa; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Jones, E.; Jones, J.; Keel; Keffer; King, P.; Kitchen; Kolkhorst; Kuempel; Lewis, G.; Longoria; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solomons; Swinford; Talton; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; West; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough.

Present, not voting — Mr. Speaker; Bosse(C).

Absent, Excused — Capelo; Crownover; Hawley; Hilbert; Hilderbran; Janek; Jones, D.; Junell; Miller; Solis; Walker; Williams; Zbranek.

Absent, Excused, Committee Meeting — Cook; Counts; Hochberg; King, T.; Lewis, R.; Marchant; Pitts; Puente; Sadler; Tillery.

Absent — Chavez; Dunnam; Farrar; Goodman; Green; Gutierrez; Krusee; Maxey; Moreno, P.; Wilson.

STATEMENT OF VOTE

When Record No. 599 was taken, I was in the house but away from my desk. I would have voted yes.

Krusee

Senate Committee Substitute

CSHB 3195, A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Fort Bend County Municipal Utility District Number 134 and to the authorization of bonds and the levy of taxes; providing civil penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. GENERAL PROVISIONS

SECTION 1.01. CREATION. (a) A conservation and reclamation district, to be known as Fort Bend County Municipal Utility District Number 134, is created. The district is a governmental agency and a body politic and corporate.

(b) The district is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

(c) The district has the powers of a municipal utility district as provided by Chapter 54, Water Code, and is governed by Chapters 49 and 54, Water Code, unless otherwise provided by this Act.

SECTION 1.02. DEFINITIONS. In this Act:

(1) "City" means the city of Houston.

(2) "District" means the Fort Bend County Municipal Utility District Number 134.

(3) "Board" means the board of directors of the Fort Bend County Municipal Utility District Number 134 or a district resulting from a division under Article 7 of this Act.

SECTION 1.03. BOUNDARIES. (a) The district includes the territory contained within the following area:

Being 2337.415 acres of land located in the William Morton League, A-62, the Jane Wilkins League, Abstract 96, and the J.H. Cartwright Survey, Abstract 16, Fort Bend County, Texas, more particularly being a portion of the residue of that certain State of Texas Department of Criminal Justice (Harlem State Farm) tract called 5656.65 acres described by an instrument of record recorded in Volume 152, Page 423 of the Deed Records of Fort Bend County, Texas (F.B.C.D.R.), a portion of the residue of those certain tracts called 437.379 acres, described as Exhibit A-13, 574.267 acres described as Exhibit A-12, and 1118.992 acres described as Exhibit A-11, all conveyed to The State of Texas State Department of Highways & Public Transportation by an instrument of record in Volume 2329, Page 50 of the Official Records of Fort Bend County, Texas (F.B.C.O.R.), said 2337.415 acres being more particularly described in two (2) parts by metes and bounds as follows, all bearings based on the Texas State Plane Coordinate System, South Central Zone;

PART 1

BEGINNING at a 5/8-inch iron rod with TxDOT aluminum disc found marking the northwest corner of that certain tract called 97.179 acres described as Parcel 9, conveyed to the State of Texas for a Controlled Access Highway Facility (Grand Parkway, 300 feet wide) by an instrument of record in Volume 2367, Page 2413 F.B.C.O.R., same being in the south line of the aforementioned residue of 574.267 acres;

Thence, with the said south line, North $82^{\circ}22'32''$ West, 1588.16 feet to a point for corner in the east right-of-way line of Harlem Road, 71.5 feet wide;

Thence, South $86^{\circ}53'29''$ West, at 71.50 feet pass the southeast corner of the aforementioned residue of 437.379 acres and the west right-of-way line of said Harlem Road, and continue with the south line of said residue of 437.379 acres in all a distance of 1782.08 feet to a point for corner;

Thence, with the south line of said residue of 437.379 acres the following two (2) courses:

1) North $08^{\circ}00'49''$ West, 1268.72 feet to a point for corner;

2) South $86^{\circ}22'27''$ West, 1692.03 feet to a point for corner, same being the southwest corner of said 437.379 acres;

Thence, with the westerly line of said residue of 437.379 acres the following three (3) courses:

1) North $02^{\circ}25'57''$ West, 1303.62 feet to a point for corner;

2) North $02^{\circ}21'10''$ West, 1320.37 feet to a point for corner;

3) North $02^{\circ}08'31''$ West, 2220.08 feet to a point for corner in the south line of Mortin Road (width varies);

Thence, with the common line of said residue of 437.379 acres and Mortin Road, North $86^{\circ}56'55''$ East, 3448.80 feet to a point for corner in the aforementioned west right-of-way line of Harlem Road;

Thence, with said west right-of-way line of Harlem Road the following two (2) courses:

1) South $02^{\circ}56'06''$ East, 1487.50 feet to a point for corner;

2) South $03^{\circ}03'53''$ East, 1259.36 feet to a point for corner in the south right-of-way line of aforementioned Grand Parkway and in the arc of a curve whose center bears South $04^{\circ}45'14''$ West;

Thence, with said south right-of-way line of Grand Parkway the following two (2) courses:

1) 1207.94 feet along the arc of a curve to the right having a radius of 2664.79 feet, a central angle of $25^{\circ}58'19''$ and a chord which bears South $36^{\circ}15'37''$ East, 1197.62 feet to a point for corner at the end of said curve;

2) South $23^{\circ}24'05''$ East, 2809.51 feet to the POINT OF BEGINNING and containing 509.555 acres of land.

PART 2

BEGINNING at a 5/8-inch iron rod with TxDOT aluminum disc found marking the northeast corner of that certain tract called 97.179 acres described as Parcel 9, conveyed to the State of Texas for a Controlled Access Highway Facility (Grand Parkway, 300 feet wide) by an instrument of record in Volume 2367, Page 2413 F.B.C.O.R., same being in the south line of the aforementioned residue of 574.267 acres;

Thence, with the easterly right-of-way line of Grand Parkway the following two (2) courses:

1) North $23^{\circ}18'39''$ West, 3046.62 feet to a point for corner, the beginning of a curve;

2) 1622.02 feet along the arc of a curve to the left having a radius of 3064.79 feet, a central angle of $30^{\circ}19'24''$ and a chord which bears North $38^{\circ}28'09''$ West, 1603.15 feet to a point for corner;

Thence, North $35^{\circ}03'02''$ West, 47.60 feet to a point for corner;

Thence, North $03^{\circ}04'30''$ West, 225.00 feet to a point for corner;

Thence, North $06^{\circ}11'01''$ West, 100.20 feet to a point for corner in the east right-of-way line of Harlem Road, 71.5 feet wide;

Thence, with said east right-of-way line, North $03^{\circ}03'53''$ West, 450.10 feet to a point for corner in the south right of way line of Madden Road (width varies);

Thence, with said south right-of-way line of Madden Road the following three (3) courses:

1) North $87^{\circ}52'53''$ East, 2316.95 feet to a point for corner;

2) North $87^{\circ}21'39''$ East, 3275.44 feet to a point for corner;

3) North $87^{\circ}28'16''$ East, at 54.43 feet pass an angle point in said south right-of-way line of Madden Road and continue with the north line of said residue of 574.267 acres in all a distance of 762.58 feet to a point for corner in the west line of the aforementioned residue of 1118.992 acres;

Thence, with the west line of said residue of 1118.992 acres, North $02^{\circ}10'00''$ West, 2584.54 feet to a point for corner in the south line of aforementioned Madden Road, same being the northwest corner of said residue of 1118.992 acres;

Thence, with the common line of said residue of 1118.992 acres and Madden Road, North $88^{\circ}04'14''$ East, 4804.30 feet to a point for corner in the west right-of-way line of F.M. 1464, 80 feet wide;

Thence, with the common line of said residue of 1118.992 acres and F.M. 1464 the following five (5) courses:

1) South $07^{\circ}00'01''$ East, 725.91 feet to a point for corner;

2) South $02^{\circ}33'11''$ East, 8041.31 feet to a point for corner;

3) South $87^{\circ}37'59''$ West, 35.60 feet to a point for corner;

4) South $02^{\circ}16'30''$ East, 18.37 feet to a point for corner, the beginning of a curve

5) 446.12 feet along the arc of a curve to the right having a radius of 1834.86 feet, a central angle of $13^{\circ}55'51''$ and a chord which bears South $04^{\circ}25'35''$ West, 445.03 feet to a point for corner in the south line of said residue of 1118.992 acres;

Thence, with the south line of said residue of 1118.992 acres the following three (3) courses:

1) South $87^{\circ}38'52''$ West, 1339.67 feet to a point for corner;

2) North $02^{\circ}16'32''$ West, 1004.04 feet to a point for corner;

3) South $88^{\circ}29'15''$ West, 3462.95 feet to a point for corner, same being a reentrant corner of the aforementioned 5656.65 acres;

Thence, with an east line of said 5656.65 acres, South $02^{\circ}24'27''$ East, 3277.78 feet to a point for corner in the centerline of Oyster Creek;

Thence, with said centerline of Oyster Creek the following five (5) courses:

1) North $23^{\circ}27'08''$ West, 390.38 feet to a point for corner, the beginning of a curve;

2) 1062.30 feet along the arc of a curve to the left having a radius of 950.00 feet, a central angle of $64^{\circ}04'07''$ and a chord which bears North $55^{\circ}29'12''$ West, 1007.81 feet to a point for corner at the end of said curve;

3) North $87^{\circ}31'15''$ West, 773.83 feet to a point for corner, the beginning of a curve;

4) 675.89 feet along the arc of a curve to the left having a radius of 1050.00 feet, a central angle of $36^{\circ}52'54''$ and a chord which bears South $74^{\circ}02'18''$ West, 664.28 feet to a point for corner at the end of said curve;

5) South $55^{\circ}35'51''$ West, 824.96 feet to a point for corner in the easterly line of the aforementioned Grand Parkway;

Thence, with said easterly line of Grand Parkway the following six (6) courses:

1) North $23^{\circ}17'59''$ West, 1559.47 feet to a point for corner;

2) North $22^{\circ}14'23''$ West, 840.34 feet to a point for corner;

3) North $21^{\circ}08'23''$ West, 508.72 feet to a point for corner;

4) North $18^{\circ}04'32''$ West, 396.44 feet to a point for corner;

5) North $19^{\circ}01'23''$ West, 397.70 feet to a point for corner;

6) North $23^{\circ}58'25''$ West, 4.01 feet to the POINT OF BEGINNING and containing 1827.860 acres of land.

Said Part 1 and Part 2 containing a total of 2337.415 acres of land.

(b) A mistake in the patents or field notes or in copying the patents or field notes in the legislative process does not affect the organization, existence, or validity of the district, the right of the district to issue bonds or refunding bonds or to pay the principal of or interest on issued bonds, the right of the district to levy and collect taxes, or the legality or operation of the district or its governing board.

ARTICLE 2. ADMINISTRATIVE PROVISIONS

SECTION 2.01. BOARD. (a) The district is governed by a board of five directors elected as provided by Section 2.04.

(b) Except for initial directors, directors serve staggered four-year terms, with the terms of two or three directors expiring September 1 of each even-numbered year.

(c) Initial directors shall serve until permanent directors are elected under Section 2.04 of this Act and have qualified as required by Subsection (e) of this section.

(d) A director serves until the director's successor has qualified.

(e) A director must qualify to serve as required by Section 49.055, Water Code.

SECTION 2.02. DIRECTOR ELIGIBILITY. (a) Except for initial directors, a person must meet the requirements of Section 54.102, Water Code, to be eligible to serve as a director. A person must be a resident of Fort Bend County or Travis County to be eligible to serve as an initial director.

(b) Notwithstanding Section 49.052, Water Code, employment with a state agency, other than the Texas Department of Transportation, the General Land Office, or the School Land Board, does not disqualify a person from serving as a director.

(c) An employee of the district may not serve as a director.

SECTION 2.03. APPOINTMENT OF INITIAL DIRECTORS. (a) The School Land Board shall appoint five initial directors as soon as practicable

after the effective date of this Act. The School Land Board shall appoint two initial directors to serve terms expiring on the first Saturday in May 2002, and three initial directors to serve terms expiring on the first Saturday in May 2004.

(b) If a vacancy occurs, the School Land Board shall appoint a successor to fill the vacancy and to serve the remainder of the unexpired term.

SECTION 2.04. ELECTION OF PERMANENT DIRECTORS. (a) Beginning in 2002, on the first Saturday in May of each even-numbered year an election shall be held for the election of the appropriate number of permanent directors.

(b) The board shall publish notice of an election under this section once a week for two consecutive weeks in a newspaper of general circulation in the district beginning not later than 14 days before the date of the election.

SECTION 2.05. MEETINGS AND BOARD ACTIONS. (a) The board may establish regular meetings to conduct the business of the district and may hold special meetings if necessary as determined by the board. The board shall hold a meeting under this section within the district unless the board, by a majority vote at a public meeting, decides to hold the meeting outside of the district.

(b) The board may adopt bylaws to govern the affairs of the district. The board may provide in the bylaws that, except for initial directors, a director shall receive compensation of \$20 for attending a meeting of the board. A director may not be paid more than \$40 for meetings held in a calendar month.

SECTION 2.06. APPOINTMENT OF BOARD SECRETARY AND TREASURER. The board shall appoint a secretary and treasurer. The secretary and treasurer may be, but are not required to be, members of the board. One person may serve as both secretary and treasurer. The treasurer shall give bond in an amount required by the board. The condition of the bond shall be that the treasurer will faithfully account for all money that comes into the custody of the treasurer. The board shall require a bond under this section of at least \$100,000 if the district has authorized the issuance of bonds. If the district has not authorized the issuance of bonds, the board shall require a bond of at least \$5,000.

SECTION 2.07. CONFLICT OF INTEREST: CONTRACT. A director who is financially interested in a contract that is proposed to be executed by the board for the purchase of property or services or for the construction of facilities shall disclose the director's interest to the board and may not vote on the acceptance of the contract.

SECTION 2.08. DISTRICT EMPLOYEES. The board may employ a general manager and consulting engineers, financial consultants, attorneys, and auditors. The general manager shall be responsible for:

- (1) administering the board's directives;
- (2) maintaining district records, including minutes of board meetings;
- (3) coordinating with federal, state, and local agencies;
- (4) developing plans and programs for the board's approval;
- (5) hiring, supervising, training, and discharging the district's employees;
- (6) obtaining technical, scientific, legal, fiscal, or other professional services for the district; and
- (7) performing other duties as assigned by the board.

SECTION 2.09. EMPLOYEE BONDS. (a) The general manager and each employee of the district who is charged with the collection, custody, or payment of district money shall execute a fidelity bond in an amount determined by the board and in a form and with a surety approved by the board.

(b) The district shall pay the premium on a bond under this section.

SECTION 2.10. PRINCIPAL OFFICE. (a) If the district has not issued bonds, the district may maintain its principal office in Fort Bend County or Travis County. If the district maintains its principal office in Travis County, the district shall maintain duplicates of district records in Fort Bend County and make the duplicate records available for inspection during regular business hours.

(b) If the district has issued bonds, the district shall maintain its principal office in Fort Bend County.

SECTION 2.11. RECORDS. (a) The district shall keep at its principal office:

(1) a complete and accurate account of the district's business transactions in accordance with generally accepted accounting methods;

(2) a complete and accurate record of the minutes of board meetings; and

(3) contracts, documents, and other records of the district.

(b) The district shall permit reasonable public inspection of the district's records during regular business hours.

ARTICLE 3. AUTHORITY OF DISTRICT

SECTION 3.01. POWERS AND DUTIES. (a) The district shall:

(1) administer and enforce the provisions of this Act;

(2) use the facilities and powers of the district to accomplish the purposes of this Act;

(3) coordinate water, wastewater, and drainage services within the district; and

(4) control and abate water pollution within the district.

(b) When designing utility infrastructure and related systems, the district shall submit the district's design plans and specifications for the utility infrastructure and related systems for review and approval to the City of Houston. The district shall pay to the city a fee for conducting the review if the city has established a fee that has general application for comparable reviews. The city shall complete the review of the design plans and specifications not later than the 60th day after the date on which the plans and specifications are delivered to the city. In constructing the utility infrastructure, the district shall meet or exceed the city construction standards for materials and installation specifications.

(c) Subject to the authority of the Texas Natural Resource Conservation Commission, the district may control and abate water pollution within the district. The authority of the district under this subsection does not restrict the authority of the city to control and abate water pollution within the district under state or federal law.

(d) Except as provided by this Act, the district has the powers, rights, and privileges necessary and convenient for accomplishing the purposes of this Act as provided by general law relating to a municipal utility district or water

control and improvement district created under Section 59, Article XVI, Texas Constitution.

SECTION 3.02. DISTRICT RULES. (a) The district may adopt and enforce rules reasonably required to implement this Act, including rules governing procedure and practice before the board.

(b) The district shall keep a record of the district's rules and provide a copy of the rules to a person on written request.

SECTION 3.03. INSPECTIONS AND INVESTIGATIONS. In addition to the powers provided by Section 49.221, Water Code, the district may enter public or private property located within the district for purposes of inspecting and investigating conditions of the property relating to the district's authorized purposes. The district shall conduct an inspection or investigation in accordance with provisions and restrictions applicable to the Texas Natural Resource Conservation Commission.

SECTION 3.04. HEARINGS AND ORDERS. (a) The board may:

(1) hold hearings, receive evidence from a party in interest who appears before the board, compel the attendance of a witness, and make findings of fact and determinations relating to the administration of this Act or an order or rule of the board; and

(2) delegate the authority to take testimony and administer oaths in a hearing held by the district to a member of the board or an employee of the district.

(b) An order of the board must:

(1) be in the name of the district; and

(2) be attested to by the appropriate members of the board under the district's rules.

SECTION 3.05. CIVIL PENALTY; INJUNCTION. (a) A person who violates a rule, permit, or order of the district is subject to a civil penalty of not less than \$50 and not more than \$1,000 for each violation or each day of a continuing violation.

(b) The district may sue to enjoin a threatened or present activity or to recover the penalty in a district court in the county in which the violation occurred. A penalty recovered under this subsection shall be paid to the district.

SECTION 3.06. PERMITS; CONTRACTS; COOPERATIVE AGREEMENTS. (a) The district may obtain water appropriation permits, construction permits, and other water and wastewater discharge permits from the Texas Natural Resource Conservation Commission or from permit owners. The district may acquire water or a water supply from a person, firm, corporation, municipal corporation, or public agency, the state, the United States, or any agency of the state or the United States. The board may contract with one or more substantial users of water to acquire a water supply under an agreed allocation of storage space between the district and the user or the district may contract for the district's water supply independently. The district may collect, transport, process, dispose of, and control all domestic, industrial, and communal wastes, whether in fluid, solid, or composite state. The district may contract with a person, firm, corporation, municipal corporation, or public agency, the state, the United States, or any agency of the state or the United States for the collection, transportation, processing,

disposition, or control of domestic, industrial, and communal wastes. District authority under this subsection includes the authority to enter into contracts involving coordinated infrastructure or regional utility plans. The district may not unilaterally require a person, firm, corporation, municipal corporation, public agency, or other entity to fund or construct utility infrastructure for purposes of extending utilities to the district.

(b) The district may contract with the state, a municipality, another entity created under Section 59, Article XVI, Texas Constitution, or another entity to supply water or to provide services relating to domestic, industrial, or commercial waste. The district may contract with a person, a municipality, or another entity created under Section 59, Article XVI, Texas Constitution, to rent, lease, or operate water production, water supply, water filtration or purification, and water supply facilities and facilities to provide services relating to the wastes of the person, municipality, or entity for a consideration agreed to by the district and the person, municipality, or entity. A contract under this subsection may provide that the contract continues in effect until specified bonds or notes and refunding bonds issued in lieu of the bonds or notes are paid. A municipality or entity described by this subsection may enter into a contract with the district to fix, charge, and collect fees, rates, charges, rentals, or other amounts for a service or facility provided under a contract with the district and may pledge amounts that are sufficient to make the payments required under the contract.

(c) For purposes of land use planning, the district shall encourage owners and developers of land located within the district to use and develop the land and buildings in compliance with building, housing, and fire codes, subdivision and zoning regulations, thoroughfare, water conservation, and land use plans, and other land development and safety regulations of the city.

SECTION 3.07. FACILITIES. (a) In addition to the authority provided by Sections 49.218 and 54.201, Water Code, the district may purchase, construct, acquire, own, lease, operate, maintain, repair, improve, and extend, at any location within or outside of the district, land, or an interest in land, a work, an improvement, a facility, a plant, equipment, or an appliance that is incident, helpful, or necessary to provide for:

(1) the control, storage, preservation, transmission, treatment, and distribution and use of storm water and flood water, the water of rivers and streams, and underground water for municipal, domestic, industrial, and other beneficial uses; and

(2) the collection, transportation, processing, disposition, and control of domestic, industrial, or commercial wastes.

(b) The district may:

(1) contract with a person, firm, corporation, municipality, other entity created under Section 59, Article XVI, Texas Constitution, municipal corporation, public agency, or other political subdivision of the state; and

(2) perform any other act consistent with the powers of the district and necessary to fulfill the purposes of this Act.

SECTION 3.08. USE OF PUBLIC ROADWAYS, STREETS, ALLEYS, OR EASEMENTS. The district may use a public roadway, street, alley, or easement in Fort Bend County to accomplish the purposes of the district. The district is not required to obtain a franchise or other governmental

agreement to use a roadway, street, alley, or easement that is owned by the city if, before using the roadway, street, alley, or easement, the district obtains written consent of the city to the particular use. The district shall pay a fee to a city for the use of the roadway, street, alley, or easement that equals the lesser of the district's pro rata share, based on actual area encumbered, of the fair market value or the initial purchase price for the roadway, street, alley, or easement.

SECTION 3.09. RELOCATION OF FACILITIES. The district may relocate, raise, reroute, or change the grade of, or alter the construction of, a highway, railroad, electric transmission line, pipeline, canal, or drainage ditch, if considered necessary by the board after successfully negotiating the terms of relocation with the owner or operator of the facility to be relocated. The district shall pay for any relocation, raising, rerouting, changing, or altering under this section, unless otherwise agreed in writing by the interested parties. The cost of replacement is limited to the comparable replacement of any replaced facility, less the replaced facility's net salvage value. The district shall follow the procedures described by this section if a facility described by this section has to be relocated to another easement owned and operated by the district.

ARTICLE 4. GENERAL FISCAL PROVISIONS

SECTION 4.01. DISBURSEMENT OF MONEY. The district may disburse money only by check, draft, order, or other instrument signed by a person authorized in the bylaws of the district or by board resolution.

SECTION 4.02. FEES AND CHARGES. The district may establish fees and charges not to exceed the amounts necessary to enable the district to fulfill the obligations of the district as provided by this Act.

SECTION 4.03. LOANS AND GRANTS. The district may apply for and receive a loan or grant from the state or the United States, or any agency of the state or the United States, or from a private entity, for purposes of exercising the powers of the district.

SECTION 4.04. DEPOSITORY BANKS. (a) District funds shall be deposited in a depository bank designated under Section 49.156, Water Code, and this section.

(b) Before designating at least one depository bank as provided by Section 49.156, Water Code, the board shall publish notice at least once in a newspaper of general circulation in the district to solicit applications from banks interested in serving as a depository for the district. The notice shall include the time and place of the board meeting at which the board proposes to designate a depository bank. The board shall prescribe the term of service of a depository bank designated under Subsection (a) of this section.

(c) The board shall review an application received under Subsection (b) of this section, including examining the management and condition of each bank submitting an application. In reviewing an application under this subsection, the board may consider:

(1) the terms and conditions proposed by a bank for handling the district's money;

(2) the management of the bank; and

(3) the ability of the bank to handle the district's money.

(d) A bank is not disqualified from being a depository under this section because an officer or a director of the bank is a member of the board.

(e) An officer or a director of a bank is not disqualified from being a member of the board.

(f) If the board does not receive an application under this section, the board may designate a bank as depository on terms that the board finds proper.

ARTICLE 5. BOND AND TAX PROVISIONS

SECTION 5.01. TAXES; REVENUE BONDS. (a) For purposes of exercising the authority of the district as provided by this Act, the district may issue bonds or other obligations that are:

(1) secured by ad valorem taxes;

(2) secured by a pledge of all or part of the revenues accruing to the district, including revenues received from the sale of water or other products, the rendition of service, tolls, charges, and any other source of revenue, other than ad valorem taxes; and

(3) secured by both a pledge of all or part of the revenues described by Subdivision (2) of this subsection and ad valorem taxes.

(b) An obligation issued by the district shall be authorized by resolution of the board, issued in the name of the district, signed by the president or vice president, attested to by the secretary, and bear the seal of the district. The signatures of the president or vice president and the secretary may be printed or lithographed on the obligation. The seal of the district may be impressed, printed, or lithographed on the obligation. An obligation issued by the district:

(1) shall be in a form prescribed by the board;

(2) may be in any denomination;

(3) shall mature serially or otherwise not later than 50 years from the date of issuance;

(4) may bear any interest rate;

(5) may be sold at a price and under terms determined by the board to be the most advantageous available;

(6) may, in the discretion of the board, be made callable before maturity at times and prices as provided in the obligation;

(7) may be made registrable as to principal or principal and interest; and

(8) may be secured by an indenture of trust with a corporate trustee.

(c) An obligation under this section may be issued in more than one series as required to carry out the purposes of this Act. A pledge of revenue may reserve the right to issue additional obligations under conditions specified on the pledge. An additional obligation is on a parity with or subordinate to the original obligation.

(d) The district is an issuer for purposes of Chapter 1371, Government Code.

(e) A board resolution authorizing an obligation or a trust indenture under this section may include additional terms to provide for a corporate trustee or receiver to take possession of facilities of the district in the event of default by the district relating to the obligation or trust indenture. The additional terms, if any, constitute a contract between the district and the owner of the obligation.

(f) The district may not issue bonds that are secured by or otherwise encumber permanent school fund land located within the district.

SECTION 5.02. BOND ANTICIPATION NOTES. The district may issue bond anticipation notes for purposes of exercising the powers of the district.

Bond anticipation notes may be secured by a pledge of all or part of the revenues of the district. The district may authorize the issuance of bonds to pay the principal of and interest on bond anticipation notes issued under this section. Bond anticipation notes shall be secured by a pledge of all or part of the revenues of the district and may be issued on a parity with or subordinate to outstanding bonds of the issuer. If the resolution or trust agreement authorizing the issuance of bond anticipation notes contains a covenant that the notes are payable from the proceeds of subsequently issued bonds, the district is not required to demonstrate that the revenues that may be pledged to the notes are sufficient to pay the principal of and interest on the notes for purposes of receiving approval of the attorney general or registration by the comptroller.

SECTION 5.03. REFUNDING BONDS. (a) The district may issue refunding bonds to refund outstanding bonds and interest as authorized by this Act.

(b) Refunding bonds may:

- (1) be issued to refund one or more series of outstanding bonds;
- (2) combine the pledges for the outstanding bonds for the security of the refunding bonds; or
- (3) be secured by additional revenues.

(c) Refunding bonds may be issued without holding an election to authorize the issuance of the bonds. The provisions of this Act relating to the issuance of other bonds by the district, security for the bonds, approval by the attorney general, and remedies of the holders of the bonds apply to refunding bonds.

(d) Refunding bonds shall be registered by the comptroller on surrender and cancellation of the bonds to be refunded or, if the resolution authorizing the issuance of refunding bonds provides that the bonds shall be sold and the proceeds deposited in the bank where the bonds to be refunded are payable, the refunding bonds may be issued in an amount sufficient to pay the principal and interest of the bonds to be refunded to their option or maturity date. The comptroller shall register the refunding bonds without concurrent surrender and cancellation of the bonds to be refunded.

SECTION 5.04. APPROVAL AND REGISTRATION OF BONDS. District bond review and approval is governed by Subchapter F, Chapter 49, Water Code.

SECTION 5.05. PROPERTY: RENDITION; VALUATION; LEVY.

(a) Except as provided by this section, the rendition and assessment of property for taxation, the equalization of values, and the collection of taxes for the benefit of the district shall be conducted in accordance with the law applicable to counties to the extent possible.

(b) The tax assessor-collector of the county shall act as the tax assessor-collector for the district for district property located in the county. The county tax assessor-collector shall place on the county tax rolls a column or columns as necessary to show the taxes, including the amount of taxes, levied by the district, based on the value of the property as approved and equalized. The fee charged by the county tax assessor-collector for assessing and collecting taxes is one percent of the taxes collected and shall be paid and disbursed by the district in the same manner as other fees of office.

(c) The mechanisms available to enforce the collection of state and county taxes may be used by the district to enforce the collection of taxes levied by the district. The district is entitled to require the county officers to enforce and collect the taxes due to the district as provided for the enforcement of state and county taxes.

(d) Taxes assessed and levied for the benefit of the district are payable and become delinquent at the same time, in the same manner, and subject to the same discount for advance payment as taxes levied by and for the benefit of the county in which the property is taxable. The fee for collecting delinquent taxes through prosecution of suit is 15 percent of the taxes collected by the suit, to be paid and disbursed by the district in the same manner as other fees of office.

(e) At the same time that the commissioners court levies county taxes, the board shall levy a tax on all taxable property in the district that is subject to taxation. The board shall immediately certify the tax rate to the tax assessor-collector of each county that contains territory within the district.

(f) The district may not impose an impact fee or special assessment on the property, equipment, right-of-way, facility, or improvement of an electric utility or power generation company as defined by Section 31.002, Utilities Code, or a gas utility as defined by Section 101.003 or 121.001, Utilities Code. This subsection does not prevent the district from levying and collecting ad valorem taxes on land owned by a utility.

ARTICLE 6. ADDITION AND EXCLUSION OF LAND

SECTION 6.01. ANNEXATION. The district may add territory as provided by Sections 6.02, 6.03, and 6.04 of this Act.

SECTION 6.02. PETITION TO ADD LAND. (a) An owner or owners of land, whether or not contiguous to the territory of the district, may file with the board a petition requesting that the land described in the petition by metes and bounds or by lot and block number, if there is a recorded plat of the area, be included in the district.

(b) A petition under Subsection (a) of this section must be signed and executed in the manner provided by law for the conveyance of real estate.

(c) A petition requesting that the district annex a defined area must be filed with the secretary of the board and must be signed by:

(1) a majority in value of the owners of land in the defined area, as shown by the tax rolls of the county or counties in which the defined area is located, if the number of landowners in the defined area is 50 or less; or

(2) 50 landowners if the number of landowners in the defined area is more than 50.

(d) The board shall hear and consider a petition received under Subsection (a) of this section and may add to the district the land described in the petition if:

(1) the board determines that adding the land to the district is advantageous to the district; and

(2) the water system and other improvements of the district are sufficient or will be sufficient to provide service to the land added to the district without injuring the land in the district before the petition is granted.

SECTION 6.03. NOTICE AND HEARING. (a) The board shall issue an order setting a time and place to hear a petition filed under Section 6.02 of

this Act. The hearing shall be held not earlier than the 15th day after the date on which the board issues the order.

(b) The secretary shall issue a notice providing the time and place of the hearing set under Subsection (a) of this section and describing the area proposed to be annexed. Notice of the hearing shall be given by:

(1) posting copies of the notice in three public places in the district and in one public place in the area proposed to be annexed for at least seven days before the date of the hearing; and

(2) publishing a copy of the notice in a newspaper of general circulation in the county or counties in which the area proposed to be annexed is located at least seven days before the date of the hearing.

(c) If the board finds that the proposed annexation is feasible and practicable and would benefit the district and the area proposed to be added to the district, the board may by order receive all or a part of the proposed area as an addition to and part of the district. An order issued by the board under this subsection shall describe the area added to the district and be entered in the minutes.

SECTION 6.04. ANNEXATION ORDER. (a) A copy of the order adding land to the district shall be signed by a majority of the members of the board, attested to by the secretary of the board, and filed and recorded in the deed records of the county or counties in which the district is located.

(b) On the date that the order is recorded as required by Subsection (a) of this section, the area described in the order is included in the territory of the district.

SECTION 6.05. PETITION TO EXCLUDE LAND. A petition to exclude land from the district must specifically describe the land to be excluded by metes and bounds or by reference to a plat recorded in the plat records of the county or counties in which the land is located. The petition must be signed by at least 10 percent of the owners of land in the area to be excluded or, if the number of owners of land is more than 50, by at least five of the owners of land. The petition must be filed with the district before the seventh day preceding the date the hearing is held to consider the petition. The petition must clearly state the grounds supporting the exclusion of the land from the district. The board may consider only the grounds stated in the petition.

SECTION 6.06. NOTICE AND HEARING. (a) The board may order a hearing to be held to exclude land from the district on petition of a landowner or on motion of the board if there is no outstanding board order relating to an election for the authorization of bonds payable in whole or in part from taxes and the district does not have outstanding indebtedness secured by taxes or net revenues of the district.

(b) Notice of hearing under this section shall be published by the board once a week for two consecutive weeks in one or more newspapers of general circulation in the district. The first notice shall be published not earlier than the 40th day or later than the 14th day preceding the date of the hearing.

(c) The board may not exclude land from the district unless the board determines that:

(1) the district has no obligations that will be impaired by the exclusion of the land;

(2) the district will incur no obligations as a result of the exclusion; and

(3) the exclusion is in the best interests of the district.

(d) The board, after considering all engineering data and other evidence presented at the hearing and making the determinations required by Subsection (c) of this section, shall enter an order excluding the land from the district and redefining the boundaries of the district as appropriate. If land proposed to be excluded contains water or wastewater customers of the district, the customers remain customers of the district. Owners of lots within the land proposed to be excluded in which water and wastewater facilities have been extended retain the right to connect to the district's water and wastewater system and become district customers.

SECTION 6.07. EFFECTIVE DATE OF ORDER EXCLUDING LAND.

(a) Except as provided by Subsection (c) of this section, an order of the board excluding land from the district on petition signed by the owner or owners of land that is proposed to be excluded takes effect on the date on which the board enters the order.

(b) Except as provided by Subsection (c) of this section, an order excluding land from the district on petition signed by less than all the owners of land that is proposed to be excluded takes effect:

(1) on the day immediately following the date on which a petition under Section 6.08 of this Act must be received by the board if the district does not receive a petition under that section; or

(2) on the day immediately following the date on which the election returns are canvassed if the exclusion is ratified at an election under Section 6.08 of this Act.

(c) An order excluding land from the district under this section may not take effect unless all taxes levied and assessed by the district within the land that is proposed to be excluded are paid in full.

SECTION 6.08. PETITION FOR RATIFICATION ELECTION. (a) If the board issues an order excluding land on petition signed by less than all the owners of land in the area proposed to be excluded, the board shall publish a notice that describes the excluded land and states that the exclusion will become final unless the board receives, not later than the 25th day after the date on which the board issues the order, a petition requesting a ratification election. A petition under this subsection must be signed by at least 10 percent of the qualified voters residing in the area that is proposed to be excluded from the district.

(b) If the board receives a petition under Subsection (a) of this section, the order excluding land from the district is not effective unless the exclusion is approved by a majority vote of the residents of the district at a ratification election held for that purpose.

(c) A ratification election, including notice of the election and the qualifications of the voters, shall be conducted as provided by Subchapter J, Chapter 49, Water Code.

ARTICLE 7. DIVISION OF DISTRICT

SECTION 7.01. CONDITIONS OF DIVISION. (a) The board may divide the territory of the district into two or more districts if the district does not have outstanding indebtedness secured by taxes or net revenues. The board may not

divide the territory of the district if the division results in a district with territory of less than 100 acres. On petition of a landowner or on motion of the board, the board may consider a proposal to divide the original district or any district subsequently created by division.

(b) The board may not divide territory of the district if the division results in numerous utility providers within the original territory of the district. The board may divide territory of the district for purposes of encouraging and promoting orderly development within the original territory of the district and facilitating dependable and efficient utility service at affordable rates to customers of the district.

(c) Creation of new districts by division of the district or any districts resulting from the divisions of the district must be accomplished in compliance with other applicable law, including the necessity of obtaining any consent from any municipality in whose extraterritorial jurisdiction any of the land in the district or any proposed new district to be created by division might lie.

SECTION 7.02. PROVISIONS RELATING TO NEW DISTRICTS.

(a) Before the board may divide territory of the district or any district resulting from a division under this article, the board shall:

(1) determine the terms of the division, including a plan to pay and perform the outstanding obligations of the district; and

(2) prepare a metes and bounds description of the proposed division.

(b) Except as provided by Section 8.03 of this Act, if the board divides territory under this article, the board shall be divided in an appropriate manner consistent with the division of the district.

(c) Districts resulting from a division under this article shall be designated in an appropriate manner. For example, if the district were divided into two districts, the districts shall become Fort Bend County Municipal Utility District 134A and Fort Bend County Municipal Utility District 134B.

(d) A district resulting from a division under this article must obtain authorization for the issuance of bonds payable wholly or partially from ad valorem taxes by a majority vote of the qualified voters of that district voting in an election called and held for that purpose.

(e) A district resulting from a division under this article must obtain authorization for a maintenance tax by a majority vote of the qualified voters of that district voting in an election called and held for that purpose.

SECTION 7.03. APPOINTMENT AND ELECTION OF DIRECTORS. (a) A district resulting from a division under this article is a separate district and is governed as a separate district.

(b) The board shall continue to act on behalf of a newly created district for 90 days after the date on which a division under this article is approved for purposes of closing the district's affairs.

(c) The board shall appoint two initial directors for a district resulting from a division under this article to serve terms expiring the first Saturday in May of the first even-numbered year after creation of the district, and three initial directors to serve terms expiring the first Saturday in May of the second even-numbered year after creation of the district. A member of the board may be appointed as a director of a district resulting from a division under this article.

(d) If a vacancy occurs on the board of directors of a district resulting

from a division under this article, the board of directors of that district shall appoint a successor to serve for the remainder of the unexpired term.

(e) A successor to the board of directors of a district resulting from a division under this article shall be elected as provided by Section 2.04 of this Act.

SECTION 7.04. PAYMENT OF DISTRICT DEBTS. A division of territory of the district under this article may not impair the current obligations or bond authorizations of the district that is divided. The debts of the district may be paid by taxes, revenues, or assessments levied on land in the district or by contributions from each new district resulting from a division under this article on terms stated in the division proposed by the board under Section 7.02 of this Act.

SECTION 7.05. AUTHORITY OF DISTRICTS RESULTING FROM DIVISION. A district resulting from a division under this article may incur and pay debts created by that district, has the authority granted to the original district created under this Act, and may enter into contracts with other districts resulting from a division under this article for purposes of providing water and wastewater services or other appropriate purpose.

SECTION 7.06. ASSUMPTION OF OBLIGATIONS. A district resulting from a division under this article shall assume the obligations of the original district under an agreement or resolution consenting to the creation of the district unless the agreement or resolution imposes obligations that limit the powers and authority of the district to issue bonds for a purpose authorized by this Act. The remaining obligations of the original district shall be divided on a pro rata basis among the districts resulting from a division under this article based on the number of acres in a district or on terms agreed to by the districts resulting from a division under this article.

SECTION 7.07. NOTICE TO TEXAS NATURAL RESOURCE CONSERVATION COMMISSION. The district shall provide written notice of a plan to divide the district under this article to the Texas Natural Resource Conservation Commission not later than the 30th day after the date on which the board decides to divide the district.

ARTICLE 8. ANNEXATION AND DISSOLUTION OF DISTRICT

SECTION 8.01. ANNEXATION. (a) Notwithstanding any other law, the city may annex the district, including districts resulting from a division under Article 7 of this Act, only if the city:

- (1) assumes the outstanding indebtedness of the district or districts;
- (2) dissolves the district or districts not later than six months after the date of annexation;
- (3) assumes the assets, including all accounts receivable and the right to collect outstanding taxes, delinquent taxes, and other indebtedness of the district or districts;
- (4) refrains from imposing municipal taxes on property located within the district or districts before the dissolution of the district or districts;
- (5) provides municipal utility, emergency medical, fire, police, garbage collection, and other standard municipal services to the residents of the district or districts at the same rate as is charged to residents within the municipality, or residents of similar developments; and

(6) complies with regional land use planning within the district.

(b) Notwithstanding Subsection (a)(5) of this section, a municipality that annexes and dissolves the district or districts may impose water supply fees, impact fees, and other assessments allowed by state law on property previously located within the district or districts, except for property that has received a utility service allocation by the district or districts or property in which site development has been authorized or commenced.

(c) The district or districts shall transfer all assets of the district or districts to a municipality that annexes and dissolves the district or districts, as provided by instruments approved by the municipality and district or districts.

ARTICLE 9. MISCELLANEOUS PROVISIONS

SECTION 9.01. TAX EXEMPTION. The purposes stated in this Act are for the benefit of the people of the state, including the improvement of property and industry. The district, in carrying out the purposes of this Act, is performing an essential public function under the constitution and is not required to pay a tax or assessment on a project of the district or on the bonds or notes issued by the district under this Act, including the transfer of, the income from, and the profits made on the sale of issued bonds and notes.

SECTION 9.02. INITIAL DIRECTORS ELECTION. Notwithstanding Section 2.04 of this Act, the district shall hold its first election for permanent directors on the first Saturday in May 2002.

SECTION 9.03. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS. (a) The proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and other laws of this state, including the governor, who has submitted the notice and Act to the Texas Natural Resource Conservation Commission.

(b) The Texas Natural Resource Conservation Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(c) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 9.04. EFFECTIVE DATE. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 3195** as follows:

On page 10, line 29, Section 5.05, Subsection (f), between "Code" and "," insert the following: "a telecommunications provider as defined by Section 51.002(10), Utilities Code.".

(Junell now present)

**HB 3209 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Uher called up with senate amendments for consideration at this time,

HB 3209, A bill to be entitled An Act relating to a provisional commercial gulf shrimp boat license.

On motion of Representative Uher, the house concurred in the senate amendments to **HB 3209**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3209** (Senate committee printing) by striking all below the enacting clause and substituting:

SECTION 1. Section 77.020, Parks and Wildlife Code, is amended by adding Subsection (d) to read as follows:

(d) Section 12.109 and Subchapter D, Chapter 12, do not apply to a violation of a rule adopted under this chapter related to the display of a commercial shrimp boat license or a commercial shrimp boat's documentation or registration number if another violation of this chapter or a rule adopted under this chapter does not exist at the time of the violation.

SECTION 2. Section 77.0351, Parks and Wildlife Code, is amended by adding Subsection (e) to read as follows:

(e) Subchapter D, Chapter 12, does not apply to a violation of this section if another violation of this chapter or a rule adopted under this chapter does not exist at the time of the violation.

SECTION 3. This Act takes effect September 1, 2001.

(Solis now present)

**HB 3243 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Gallego called up with senate amendments for consideration at this time,

HB 3243, A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Kinney County Groundwater Conservation District; granting the power of eminent domain and conditionally granting authority to levy property taxes.

On motion of Representative Gallego, the house concurred in the senate amendments to **HB 3243**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3243** as follows:

(1) In SECTION 7 of the bill (Senate Committee Printing, page 1, line 64, through page 2, line 10) strike Subsection (a) and substitute the following:

(a) In this section, "agricultural director" means a person who owns or leases land in the district that has a current agricultural use designation under Chapter 23, Tax Code.

(b) The commissioners court shall receive a list of potential temporary directors of the district recommended:

(1) for position one, by the commissioners court;
(2) for position two, by the Brackettville City Council;
(3) for position three, by the directors of the Fort Clark Springs Municipal Utility District; and

(4) for positions four through seven, by the directors of the West Nueces-Las Moras Soil & Water Conservation District No. 236.

(c) The commissioners court shall appoint temporary directors and may consider the list compiled in Subsection (b) of this section, as follows:

(1) for position one, an at-large, agricultural director who is a resident of the district;

(2) for position two, an at-large director who is a resident of Brackettville;

(3) for position three, an at-large director who is a resident of the Fort Clark Springs Municipal Utility District; and

(4) for positions four through seven, one director from each county commissioner precinct who resides in a rural area of that precinct.

(2) In SECTION 7 of the bill (Senate Committee Printing, page 2, line 11) reletter the existing Subsection (b) as Subsection (d).

HB 3305 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Martinez Fischer called up with senate amendments for consideration at this time,

HB 3305, A bill to be entitled An Act relating to changing the deadlines and authority for ordering the election and filing for candidacy in political subdivision elections.

Representative Martinez Fischer moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3305**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3305**: Martinez Fischer, chair, Danburg, Denny, Madden, and Gallego.

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **HB 2585**:

Chavez on motion of Raymond.

The following member was granted leave of absence for the remainder of today because of important business in the district:

Isett on motion of B. Brown.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 69).

**HB 3312 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Nixon called up with senate amendments for consideration at this time,

HB 3312, A bill to be entitled An Act relating to establishing a pilot program for state emergency medical dispatch resource centers.

On motion of Representative Nixon, the house concurred in the senate amendments to **HB 3312**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3312** in SECTION 1 of the bill by striking added Section 771.105, Health and Safety Code (Senate committee printing page 2, lines 12-14), and substituting the following:

Sec. 771.105. FUNDING OF PILOT PROGRAM. Money in the 9-1-1 services fee fund may be appropriated to the Texas Department of Health to fund the pilot program. The department is also authorized to seek grant funding for the pilot program. The provisions in this subchapter that require the department to establish, conduct, and evaluate the pilot program are contingent on the department receiving funding in accordance with this section.

**HB 3315 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Ramsay called up with senate amendments for consideration at this time,

HB 3315, A bill to be entitled An Act relating to county regulation of outdoor burning.

On motion of Representative Ramsay, the house concurred in the senate amendments to **HB 3315**.

Senate Committee Substitute

CSHB 3315, A bill to be entitled An Act Relating to county regulation of outdoor burning.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 240.906 (f), Local Government Code, as added by Chapter 1453, Acts of the 76th Legislature, Regular Session, 1999, is amended to read as follows:

(f) This section does not apply to outdoor burning activities;

(1) related to public health and safety that are authorized by the Texas Natural Resource Conservation Commission for:

(A) [†] firefighter training;

(B) [2] public utility, natural gas pipeline, or mining operations; or

(C) [3] Planting or harvesting of agricultural crops; or

(2) that are conducted by a prescribed burn manager certified under Section 153.048, Natural Resources Code and meets the standards of Section 153.047.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

HB 3323 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Solomons called up with senate amendments for consideration at this time,

HB 3323, A bill to be entitled An Act relating to the creation, organization, and powers of a coordinated county transportation authority; authorizing the imposition of a tax, the issuance of bonds and notes, and the exercise of the power of eminent domain.

On motion of Representative Solomons, the house concurred in the senate amendments to **HB 3323**.

Senate Committee Substitute

CSHB 3323, A bill to be entitled An Act relating to the creation, organization, and powers of a coordinated county transportation authority; authorizing the imposition of a tax, the issuance of bonds and notes, and the exercise of the power of eminent domain.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle K, Title 6, Transportation Code, is amended by adding Chapter 460 to read as follows:

CHAPTER 460. COORDINATED COUNTY

TRANSPORTATION AUTHORITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 460.001. DEFINITIONS. In this chapter:

(1) "Authority" means a coordinated county transportation authority created under this chapter.

(2) "Balance of the county" means that part of the county that is outside the boundaries of a municipality with a population of 12,000 or more.

(3) "Executive committee" means the governing body of the authority.

(4) "Service plan" means an outline of the service that would be provided by an authority.

Sec. 460.002. APPLICABILITY. This chapter applies only to a county that is adjacent to a county with a population of more than one million.

Sec. 460.003. INELIGIBILITY OF CERTAIN MUNICIPALITIES. (a) A municipality that is a member of a subregion of a transportation authority governed by a board described in Subchapter O, Chapter 452, is not eligible to join or become a member of an authority created under this chapter unless:

(1) the municipality holds a withdrawal election in accordance with the requirements of Section 452.655 and a majority of the voters at the election approve the withdrawal;

(2) the municipality has paid in full all amounts that it is required to pay under Sections 452.659 and 452.660; and

(3) the comptroller has ceased under Section 452.658 to collect sales and use taxes within the municipality that were levied and collected in the municipality for purposes of the authority from which the municipality has withdrawn.

(b) A municipality that is not eligible under this section for membership in an authority created under this chapter may not be added to or join an authority under Section 460.302 or 460.303 until the municipality meets the requirements of this section.

[Sections 460.004-460.050 reserved for expansion]

SUBCHAPTER B. CREATION OF AUTHORITY

Sec. 460.051. CREATION OF AUTHORITY. (a) The commissioners court of a county may initiate the process to create an authority to provide public transportation and transportation-related services:

(1) on adoption of a resolution or order initiating the process to create an authority; or

(2) on receipt of a petition requesting creation of an authority signed by a number of registered voters of the county equal to or greater than five percent of the votes cast in the county in the most recent gubernatorial election.

(b) If a petition described by Subsection (a)(2) is received by the commissioners court, the petition shall be verified by the county clerk, consistent with Chapter 277, Election Code, and returned to the commissioners court with a finding of verification.

Sec. 460.052. HEARING. (a) The commissioners court shall hold a public hearing on creation of an authority not later than the 60th day after the date the commissioners court:

(1) receives a petition described by Section 460.051(a)(2); or

(2) adopts a resolution or order to initiate the process to create an authority.

(b) Notice of the time and place of the public hearing on the creation of the authority shall be published, beginning at least 30 days before the date of the hearing, once a week for two consecutive weeks in a newspaper of general circulation in the county.

(c) Each municipality in the county with a population of 12,000 or more shall be notified of the public hearing by notice mailed to the governing body of the municipality.

(d) Any person may appear at a hearing and offer evidence on:

(1) the creation of the authority;

(2) operation of the county transportation system;

(3) public interest served in the creation of the authority; or

(4) other facts relating to the creation of the authority.

(e) A hearing may be continued until completed.

Sec. 460.053. RESOLUTION OR ORDER. After the hearing, the commissioners court may adopt a resolution or order:

(1) designating the name of the authority;

(2) stating that all land within the county shall be part of the authority; and

(3) stating that the territory described in Subdivision (2) is subject to the authority based on the results of the confirmation election.

Sec. 460.054. MEMBERSHIP OF INTERIM EXECUTIVE COMMITTEE.

(a) After adopting a resolution or order under Section 460.053, the commissioners court and certain municipalities, as provided by this section, shall appoint an interim executive committee for the authority.

(b) The interim executive committee is composed of:

(1) one member appointed by the governing body of each municipality with a population of 12,000 or more that is located in the county;

(2) three members appointed by the commissioners court, two of whom must reside in the unincorporated area of the county; and

(3) three members to be designated by the remaining municipalities with a population of more than 500 but less than 12,000 located in the county.

(c) The members described by Subsection (b)(3) shall be designated as follows:

(1) each municipality with a population of more than 500 but less than 12,000 located in the county shall nominate one person using a nomination form sent to the governing body of the municipality by mail;

(2) the county judge shall add the names on the nomination forms that are received before the 31st day after the date of the mailing of the nomination forms;

(3) each municipality with a population of more than 500 but less than 12,000 located in the county is entitled to cast one vote;

(4) only ballots returned to the county judge on or before a predetermined date shall be counted;

(5) the county judge shall designate the three persons with the highest plurality vote as members of the executive committee; and

(6) if three members are not designated by this process, the county judge shall name the balance of the members of the interim executive committee described by Subsection (b)(3).

Sec. 460.055. DUTIES OF INTERIM EXECUTIVE COMMITTEE. (a) The interim executive committee shall elect three of its members to serve as the chair, vice chair, and secretary.

(b) The interim executive committee shall develop a service plan and determine a proposed tax not later than the 180th day after the date of the interim executive committee's first meeting.

(c) The interim executive committee shall hold at least one regular meeting a month for the purpose of developing a service plan and determining a proposed tax rate.

(d) The interim executive committee shall consider the following in developing the service plan:

(1) the regional transportation plan for the county and major thoroughfare plan;

(2) actual and projected traffic counts of private passenger vehicles and projected destinations of the vehicles;

(3) feasible alternative modes of public transportation, including:

(A) a fixed guideway system;

(B) passenger commercial carriers;

(C) dedicated thoroughfare lanes;

(D) fixed skyway rail;

- (E) high occupancy toll lanes;
 - (F) traffic management systems; and
 - (G) bus transit and associated lanes;
- (4) the most efficient location of collection points and transfer points;
- (5) alternative routes linking access and discharge points;
- (6) alternative alignments using least populous areas if right-of-way acquisition will be required for a transit route;
- (7) estimates of capital expenditures for a functional public transportation system;
- (8) various forms of public transportation consistent with use of transit routes, including for each form a determination of:
 - (A) cost per passenger per mile;
 - (B) the capital expense of acquisition of the public transportation system;
 - (C) costs associated with the acquisition, improvement, or modification of the transit way; and
 - (D) maintenance and operating costs;
- (9) administrative overhead costs separately from other costs;
- (10) load factors based on surveys, interviews, and other reasonable quantification for the modes of transportation;
- (11) a fare structure for the ridership of the public transportation system by mode;
- (12) a comparison of revenue from all sources, including fares, fees, grants, and debt issuance, with estimated costs and expenses;
- (13) revenue minus expenses expressed numerically and a per rider factor for each trip or segment of a trip;
- (14) if the service plan contemplates joint use of other transit systems or transfer to them, estimated dates of access; and
- (15) segments of the service plan separately if:
 - (A) some segments are more profitable than others; or
 - (B) some segments show a smaller deficit than others.

Sec. 460.056. APPROVAL OF SERVICE PLAN AND TAX RATE.

(a) On approval by the interim executive committee of the service plan and tax rate, a copy of the plan and tax rate shall be provided to the commissioners court and the governing body of each municipality with a population of 12,000 or more located in the county.

(b) Notice of the interim executive committee's approval of the service plan and tax rate shall be published in a newspaper of general circulation in the county and mailed to all governing bodies of municipalities with a population of more than 500 located in the county.

(c) Not later than the 60th day after the date the interim executive committee approves the service plan and tax rate, the governing body of a municipality with a population of 12,000 or more may approve by resolution or order the service plan and tax rate.

(d) A municipality with a population of 12,000 or more located in the county that does not give its approval under Subsection (c) may not participate in the service plan or the confirmation election for the authority.

(e) The commissioners court may not order a confirmation election in a

municipality with a population of 12,000 or more in which the governing body of the municipality does not approve the service plan and tax rate.

Sec. 460.057. CONFIRMATION ELECTION. (a) The interim executive committee shall notify the commissioners court of the need to call a confirmation election.

(b) The commissioners court in ordering the confirmation election shall submit to the qualified voters in the county the following proposition:

"Shall the creation of (name of authority) be confirmed?"

(c) In addition to other information required by law, the notice of the election must include:

(1) a brief description of the service plan; and

(2) a statement that an imposition of a tax to pay for the service plan must be approved by the voters at a subsequent election.

(d) The election must be held on a uniform election date.

Sec. 460.058. CONDUCT OF ELECTION. (a) A confirmation election shall be conducted so that the votes are separately tabulated and canvassed in order to show the results for:

(1) each municipality located in the county that passed a resolution or order approving the service plan and tax rate; and

(2) the qualified voters in the balance of the county.

(b) The interim executive committee shall canvass the returns and declare the results of the election.

Sec. 460.059. RESULTS OF ELECTION. (a) If a majority of votes received in the county favor the proposition, the authority is confirmed, except that the authority does not include a municipality with a population of 12,000 or more located in the county in which a majority of the votes did not favor the proposition.

(b) The authority ceases if:

(1) a majority of the total votes cast in no municipality with a population of 12,000 or more favors the proposition; and

(2) a majority of the votes of the qualified voters in the balance of the county do not favor the proposition.

(c) If the authority is confirmed, the interim executive committee shall record the results in its minutes and adopt an order:

(1) declaring that the creation of the authority is confirmed;

(2) stating the date of the election; and

(3) showing the number of votes cast for or against the proposition in each municipality that passed a resolution or order approving the service plan and tax rate and in the unincorporated area of the county.

(d) On adoption of the order confirming the authority, the interim executive committee becomes the executive committee of the authority.

(e) A certified copy of the order shall be filed with the Texas Department of Transportation and the comptroller of public accounts.

Sec. 460.060. FAILURE TO CONFIRM AUTHORITY. (a) If the authority ceases, the interim executive committee shall record the results of the election in its minutes and adopt an order declaring that the authority is dissolved.

(b) The county and each municipality that passed a resolution or order approving the service plan and tax rate shall share the expenses of the election

proportionately based on the population of the areas in which the election was conducted.

(c) An authority that has not been confirmed expires on the third anniversary of the effective date of the resolution or order initiating the process to create the authority.

[Sections 460.061-460.100 reserved for expansion]

SUBCHAPTER C. POWERS OF AUTHORITY

Sec. 460.101. POWERS APPLICABLE TO CONFIRMED AUTHORITY.
This subchapter applies only to an authority that has been confirmed.

Sec. 460.102. NATURE OF AUTHORITY. (a) An authority:

- (1) is a governmental body and a corporate body;
- (2) has perpetual succession; and
- (3) exercises public and essential governmental functions.

(b) An authority is a governmental unit under Chapter 101, Civil Practice and Remedies Code, and the operations of the authority are not proprietary functions for any purpose including the application of Chapter 101, Civil Practice and Remedies Code.

Sec. 460.103. GENERAL POWERS OF AUTHORITY. (a) The authority has any power necessary or convenient to carry out this chapter or effect the purpose of this chapter.

(b) An authority may sue and be sued. An authority may not be required to give security for costs in a suit brought or prosecuted by the authority and may not be required to post a supersedeas or cost bond in an appeal of a judgment.

(c) An authority may hold, use, sell, lease, dispose of, and acquire, by any means, property and licenses, patents, rights and other interests necessary, convenient, or useful to the exercise of any power under this chapter.

(d) An authority may sell, lease, or dispose of in another manner:

- (1) any right, interest, or property of the authority that is not necessary for the efficient operation and maintenance of public transportation; or
- (2) at any time, surplus materials or other property that is not needed by the authority to carry out a power under this chapter.

Sec. 460.104. POWER TO CONTRACT; GRANTS AND LOANS.
(a) An authority may contract with any person.

(b) An authority may accept a gift, grant, donation, or loan from any person.

(c) An authority may enter into an agreement, including an interlocal agreement, with a transportation or transit entity, including a municipality, that is consistent with and beneficial to the service plan approved by the authority.

Sec. 460.105. OPERATION OF PUBLIC TRANSPORTATION SYSTEM.
(a) An authority may:

(1) acquire, construct, develop, plan, own, operate, and maintain a public transportation system in the territory of the authority, including the territory of a political subdivision or municipality partially located in the territory of the authority;

(2) contract with a municipality, county, or other political subdivision for the authority to provide public transportation services outside the authority;

(3) lease all or part of the public transportation to, or contract for the operation of all or a part of the public transportation system by, an operator; and

(4) contract with a political subdivision or governmental entity to provide public transportation services inside the authority consistent with rules and regulations established by the authority, including capital, maintenance, operation, and other costs specifically approved and audited by the authority.

(b) An authority shall determine routes of the public transportation system or approve routes submitted to the authority.

Sec. 460.106. AUTHORIZATION OF TAX LEVY. (a) An authority may call an authorization election for a tax levy associated with the service plan developed by the interim executive committee or a tax rate that has been modified by action of the executive committee at any time after the confirmation election that creates the authority.

(b) The executive committee in ordering the authorization election shall submit to the qualified voters in the county located in an area participating in the authority the following proposition:

"Shall the (name of authority) levy of a proposed tax, not to exceed (rate), be authorized?"

(c) An election authorizing a tax levy shall be conducted in the same manner as a confirmation election under Subchapter B.

(d) A service plan may be implemented in an area of the county participating in the authority only if a majority of votes received favor the authorization of a tax levy by the authority.

(e) An authority that does not authorize an initial tax levy at an authorization election expires on the second anniversary of the date the executive committee adopts an order declaring that the creation of the authority is confirmed.

Sec. 460.107. ACQUISITION OF PROPERTY. (a) As necessary or useful in the construction, repair, maintenance, or operation of a public transportation system, an authority may use a public way, including an alley.

(b) An authority may acquire by eminent domain any interest in real property, including a fee simple interest and the use of air or subsurface space, except the right of eminent domain may not be exercised:

(1) in a municipality without the approval of the proposed acquisition by the governing body of the municipality; or

(2) in an unincorporated area without the approval of the proposed acquisition by the commissioners court of the county in which the property to be condemned is located.

(c) If an authority, through the exercise of eminent domain, makes any relocation necessary, the relocation costs shall be paid by the authority.

(d) An eminent domain proceeding by an authority is initiated by the adoption by the executive committee of a resolution authorizing the exercise that:

(1) describes the property to be condemned;

(2) declares the public necessity for the acquisition; and

(3) declares that the acquisition is necessary for the construction, extension, improvement, or development of the public transportation system.

(e) A resolution adopted under this section and approved by the appropriate municipal governing body or commissioners court is conclusive evidence of the public necessity for the acquisition described in the resolution.

(f) Chapter 21, Property Code, applies to an eminent domain proceeding by an authority.

Sec. 460.108. AGREEMENT WITH UTILITIES, CARRIERS. (a) An authority may agree with any other public or private utility, communication system, common carrier, or transportation system for:

(1) the joint use of the property or fixtures of the agreeing entities; and

(2) the establishment of through routes, joint fares, or transfers of passengers between the agreeing entities.

(b) If the exercise of a power granted to an authority under this subchapter requires a public utility facility to be relocated, adjusted, raised, lowered, rerouted, or changed as to grade or construction, the authority shall take the required action at the authority's expense.

(c) An authority may not impose an impact fee or assessment on the property, equipment, or facilities of a utility.

Sec. 460.109. FARES AND USE FEES. (a) An authority shall impose reasonable and nondiscriminatory fares, tolls, charges, rents, and other forms of compensation for the use of the public transportation system. The fares and other forms of compensation shall be sufficient to produce revenue, together with tax revenue and grants received by the authority, in an amount adequate to:

(1) pay annually the expenses necessary to operate and maintain the public transportation system;

(2) pay as due the principal of and interest on, and sinking fund or reserve fund payments agreed to be made with respect to, all bonds that are issued by the authority and payable in whole or part from the revenue; and

(3) fulfill the terms of any other agreement with the holders of bonds issued by the authority.

(b) Fares for passenger transportation may be set according to a zone system or by any other classification system that the authority determines to be reasonable.

(c) This section does not limit the state's power to regulate taxes imposed by an authority. The state agrees not to alter the power granted to an authority under this section to impose taxes, fares, tolls, charges, rents, and other compensation sufficient to pay obligations incurred by the authority.

(d) The state agrees not to impair the rights and remedies of an authority bondholder, or a person acting on behalf of a bondholder, until the principal and interest on the bonds, the interest on unpaid installments of interest, costs, and expenses in connection with an action or proceeding by or on behalf of a bondholder are discharged.

Sec. 460.110. INSURANCE. (a) An authority may insure, through purchased insurance policies, self-insurance programs, or both, the legal liability of the authority and of its contractors and subcontractors arising from the acquisition, construction, or operation of the programs and facilities of the authority for:

(1) personal or property damage; and

(2) officers' and employees' liability.

(b) An authority may use contracts, rating plans, and risk management programs designed to encourage accident prevention.

(c) In developing an insurance or self-insurance program, an authority may consider the peculiar hazards, indemnity standards, and past and prospective loss and expense experience of the authority and similar authorities and of its contractors and subcontractors.

Sec. 460.111. TAX EXEMPTION. The property, revenue, and income of an authority are exempt from state and local taxes.

Sec. 460.112. MASS TRANSIT RAIL SYSTEM; EXEMPTION. (a) An authority that constructs or operates or contracts with another entity to construct or operate a mass transit rail system is not subject to any state law regulating or governing the design, construction, or operation of a railroad, railway, street railway, streetcar, or interurban railway.

(b) For purposes of ownership or transfer of ownership of an interest in real property, a light rail mass transit system line operating on property previously used by a railroad, railway, street railway, or interurban railway is a continuation of existing rail use.

[Sections 460.113-460.200 reserved for expansion]

SUBCHAPTER D. PROVISIONS APPLICABLE TO EXECUTIVE COMMITTEE

Sec. 460.201. TERMS; VACANCY. (a) Each member of the executive committee serves a term of two years.

(b) A member of the executive committee may not serve more than three terms.

(c) A vacancy on the executive committee is filled in the same manner as the original appointment to the interim executive committee.

Sec. 460.202. ELIGIBILITY. To be eligible for appointment to the executive committee, a person must have professional experience in the field of transportation, business, government, engineering, or law.

Sec. 460.203. CONFLICTS OF INTEREST. Members of the executive committee and officers and employees of the authority are subject to Chapter 171, Local Government Code.

Sec. 460.204. MEETINGS. (a) The executive committee shall meet at least monthly to transact the business of an authority.

(b) The chair may call special meetings as necessary.

(c) The executive committee by resolution shall:

(1) set the time, place, and date of regular meetings; and

(2) adopt rules and bylaws as necessary to conduct meetings.

Sec. 460.205. QUORUM; VOTING REQUIREMENTS. (a) Five members constitute a quorum of the executive committee.

(b) An action of the executive committee requires a vote of a majority of the members present unless the bylaws require a larger number for a specific action.

[Sections 460.206-460.300 reserved for expansion]

SUBCHAPTER E. ADDITION OF TERRITORY

Sec. 460.301. ADDITION OF TERRITORY BY MUNICIPAL ANNEXATION. When a municipality that is part of an authority annexes territory that before the annexation is not part of the authority, the annexed territory becomes part of the authority.

Sec. 460.302. ADDITION OF MUNICIPALITY BY ELECTION. (a) The

territory of a municipality that is not initially part of an authority may be added to an authority if:

(1) any part of the municipality is located in the territory of the authority;

(2) the governing body of the municipality orders an election under this section on whether the territory of the municipality should be added to the authority; and

(3) a majority of the votes received in the election favor the measure.

(b) The governing body of the municipality shall certify to the executive committee the result of an election in which the addition is approved.

Sec. 460.303. JOINING AUTHORITY; CERTAIN AUTHORITIES. (a) A municipality that has a population of more than 500,000 and that is located in a county with a population of more than one million may join a separate authority.

(b) If a municipality described by Subsection (a) joins an authority created under this chapter and another separate authority is subsequently established in the county in which the municipality is located, the municipality may:

(1) remain in the authority that was created first;

(2) join the new authority in the county in which the municipality is located; or

(3) participate with both authorities.

(c) A municipality that has requested, participated in, or received a benefit of capital improvements made by an authority shall on its transfer to a different authority or participation with more than one authority continue to honor reimbursement obligations resulting from the improvements.

Sec. 460.304. TAX IMPOSED IN ADDED TERRITORY. (a) A sales and use tax imposed by an authority takes effect in territory added to the authority under this subchapter on the first day of the first calendar quarter that begins after the addition of the territory.

(b) An authority shall send to the comptroller of public accounts:

(1) a certified copy of an order adding the territory or of an order canvassing the returns and declaring the results of the election; and

(2) a map showing the territory added to the authority.

(c) The order must include the effective date of the tax.

[Sections 460.305-460.400 reserved for expansion]

SUBCHAPTER F. MANAGEMENT OF AUTHORITY

Sec. 460.401. MANAGEMENT OF AUTHORITY. The executive committee is responsible for the management, operation, and control of the authority and its properties.

Sec. 460.402. FINANCIAL AUDIT. (a) The executive committee of an authority shall have an annual audit of the affairs of the authority prepared by an independent certified public accountant.

(b) The audit is a public record as defined by Chapter 552, Government Code.

(c) On receipt of the audit prescribed by Subsection (a), the executive committee shall address on the record any deficiencies noted in the report at a regular meeting of the executive committee.

Sec. 460.403. BUDGET. The executive committee shall prepare an annual budget.

Sec. 460.404. FUNDING. (a) An authority may request funds for its operation from a municipality, the commissioners court, or both a municipality and the commissioners court. The request shall be accompanied by a budget.

(b) Funds appropriated to an authority are subject to audit.

(c) Federal funds or grants may be used to offset the authority's annual cost of debt service.

Sec. 460.405. PROHIBITIONS. (a) An employee, agent, or person receiving compensation from or on behalf of an authority may not attempt to affect the outcome of proposed legislation.

(b) This section does not apply to:

(1) a contested administrative matter; or

(2) pending or reasonably anticipated litigation.

Sec. 460.406. PURCHASES: COMPETITIVE BIDDING. (a) Except as provided by Subsection (c), an authority may not award a contract for construction, services, or property, other than real property, except through the solicitation of competitive sealed bids or proposals ensuring full and open competition.

(b) The authority shall describe in a solicitation each factor to be used to evaluate a bid or proposal and give the factor's relative importance.

(c) The executive committee may authorize the negotiation of a contract without competitive sealed bids or proposals if:

(1) the aggregate amount involved in the contract is \$25,000 or less;

(2) the contract is for construction for which not more than one bid or proposal is received;

(3) the contract is for services or property for which there is only one source or for which it is otherwise impracticable to obtain competition;

(4) the contract is to respond to an emergency for which the public exigency does not permit the delay incident to the competitive process;

(5) the contract is for personal or professional services or services for which competitive bidding is precluded by law; or

(6) the contract, without regard to form and which may include bonds, notes, loan agreements, or other obligations, is for the purpose of borrowing money or is a part of a transaction relating to the borrowing of money, including:

(A) a credit support agreement, such as a line or letter of credit or other debt guaranty;

(B) a bond, note, debt sale or purchase, trustee, paying agent, remarketing agent, indexing agent, or similar agreement;

(C) an agreement with a securities dealer, broker, or underwriter; and

(D) any other contract or agreement considered by the executive committee to be appropriate or necessary in support of the authority's financing activities.

[Sections 460.407-460.500 reserved for expansion]

SUBCHAPTER G. BONDS AND NOTES

Sec. 460.501. DEFINITION. In this subchapter, "bond" includes a note.

Sec. 460.502. POWER TO ISSUE BONDS. (a) An authority may issue bonds at any time and for amounts the executive committee determines are appropriate.

(b) The bonds may be issued as necessary for:

(1) the acquisition, construction, repair, improvement, or extension of an authority's public transportation system; or

(2) the creation or funding of self-insurance or retirement or pension fund reserves.

(c) A bond issued by the authority must have 20-year even principal and interest payback.

(d) A bond any portion of which is secured by a pledge of sales and use tax revenues and that has a maturity of five years or longer from the date of issuance may not be issued by an authority until an election has been held and the proposition proposing the issue has been approved by a majority of the votes received on the issue in accordance with the provisions established for the authorization of a tax levy under Subchapter C.

Sec. 460.503. BOND TERMS. The bonds of an authority are fully negotiable. An authority may make the bonds redeemable before maturity.

Sec. 460.504. SALE. An authority's bonds may be sold at a public or private sale as determined by the executive committee to be the more financially beneficial.

Sec. 460.505. INCONTESTABILITY. An authority's bonds are incontestable after the bonds are:

(1) approved by the attorney general;

(2) registered by the comptroller of public accounts; and

(3) sold to the purchaser.

Sec. 460.506. SECURITY PLEDGED. To secure the payment of an authority's bonds, the authority may:

(1) pledge all or part of revenue realized from any tax that is approved and levied;

(2) pledge any part of the revenue of the public transportation system;
or

(3) mortgage any part of the public transportation system.

Sec. 460.507. REFUNDING BONDS. An authority may issue refunding bonds at any time if the repayment savings from the refunding bonds exceeds the cost of issuance.

Sec. 460.508. NOTES. (a) An authority may issue negotiable notes payable from any of the authority's sources of revenue to pay for any lawful expenditure, other than principal and interest on the authority's debt.

(b) Notes issued by an authority shall be payable over a period not to exceed five years from the date of issuance.

(c) The Texas Natural Resource Conservation Commission is not required to approve notes issued under this section.

(d) An authority may not have outstanding notes in excess of \$1 million at any one time.

[Sections 460.509-460.550 reserved for expansion]

SUBCHAPTER H. TAXATION

Sec. 460.551. SALES AND USE TAX. (a) The executive committee may impose for an authority a sales and use tax at the rate of:

(1) one-quarter of one percent;

(2) one-half of one percent;

(3) three-quarters of one percent; or

(4) one percent.

(b) The imposition of an authority's sales and use tax must be approved at an election and may not be imposed in an area that has not confirmed the authority.

(c) A sales and use tax may be imposed, as prescribed by this section, by a municipality that participates in a transportation or transit authority other than an authority created under this chapter if:

(1) the combined rates of all sales and use taxes imposed in the municipality does not exceed two percent; and

(2) the ballot of the authorization vote for the sales and use tax reads: "(Name of city) already imposes a sales and use tax for participation in the transportation authority. The proposed sales and use tax is solely for the benefit of, and will be dedicated to, the county transportation authority."

(d) The authority shall impose a sales and use tax at a minimum uniform rate as determined by the executive committee if the tax is approved at an election in an area that has confirmed the authority.

(e) A municipality with a population of 12,000 or more that has confirmed the authority may impose a sales and use tax at a rate higher than the minimum uniform rate established under Subsection (d) on approval at an election if the authority will provide the municipality a higher level of service.

Sec. 460.552. MAXIMUM TAX RATE IN AUTHORITY AREA. (a) An authority may not adopt a sales and use tax rate, including a rate increase, that when combined with the rates of all sales and use taxes imposed by other political subdivisions having territory in the authority exceeds two percent in any location in the authority.

(b) An increase in the tax rate to a higher rate must be approved by a majority of the voters at a confirmation election.

Sec. 460.553. INITIAL SALES TAX: EFFECTIVE DATE. The adoption of a sales and use tax takes effect on the first day of the first calendar quarter after the confirmation election.

Sec. 460.554. RATE DECREASE. The executive committee by order may direct the comptroller of public accounts to collect the authority's sales and use tax at a rate that is lower than the rate approved by the voters at the confirmation hearing if the executive committee determines that it is in the best interest of the authority.

SECTION 2. This Act takes effect September 1, 2001.

Senate Amendment No. 1 (Senate Floor Amendment No. 1 - 2nd Reading)

Amend **CSHB 3323** in SECTION 1 of the bill, in proposed Section 460.059, Transportation Code (Senate Committee Printing, page 4, lines 45-50), by striking proposed Subsection (b) and substituting the following:

(b) The Authority ceases unless one or more municipalities with a population of 12,000 or more votes in favor of the proposition.

Senate Amendment No. 2 (Senate Floor Amendment No. 2 - 2nd Reading)

Amend **CSHB 3323** as follows:

1. Add appropriately numbered section to read as follows and renumber the subsequent sections appropriately:

SECTION _____. Subdivision (1), Section 451.701, Transportation Code, is amended to read as follows: (1) "Advanced

transportation" means light rail, commuter rail, fixed guideways, high occupancy vehicle lanes, high occupancy toll lanes, traffic management [monitoring] systems, bus ways, bus lanes, bus transit, transportation-related improvements and maintenance on or along public ways on which the authority provides regular bus service, and other advanced transportation facilities and services, including operating costs, and management, planning feasibility studies, and professional and other services in connection with those facilities and services.

SECTION _____. Section 451.702, Transportation Code, is amended by amending Subsections (a), (d) and (e), and adding Subsection (f) to read as follows:

(a) The board of an authority in which the sales and use tax is imposed at a rate of one-half of one percent and in which the principle municipality has a population of more than 700,000 may order an election to create an advanced transportation district within the authority's boundaries and to impose a sales and use tax for advanced transportation under this subchapter. If approved at the election, the rate of the sales and use tax for advanced transportation may be set at a rate from one-eighth of one-percent to one half of one percent in one-eighth increments as determined by the board ~~is one-fourth of one percent~~.

(d) At the election, the ballots shall be prepared to permit voting for or against the proposition: "The creation of an advanced transportation district and the imposition of a sales and use tax for advanced transportation within the district at the rate of _____ ~~[one-fourth]~~ of one percent." The board shall determine the rate of the tax prior to the preparation of the ballots.

(e) The proceeds of the sales and use tax imposed under this section shall be used ~~[by the district]~~ only for advanced transportation purposes determined by the board, which may include funds for the local share of federal or state grants for advanced transportation purposes.

(f) Payments under Subsection (e)(2) shall be made quarterly beginning the first day of the calendar quarter following the quarter in which the authority receives the tax imposed under this section.

Senate Amendment No. 3 (Senate Floor Amendment No. 1 - 3rd Reading)

Amend **HB 3323** by striking Second Reading Floor Amendment No. 2 by Madla.

HB 3329 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Averitt called up with senate amendments for consideration at this time,

HB 3329, A bill to be entitled An Act relating to tax-exempt private activity bonds.

On motion of Representative Averitt, the house concurred in the senate amendments to **HB 3329**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3329** by adding the following:

Amend Subsection (b) of Subchapter B, Chapter 1372.022, Government Code, to read as follows:

(b) Prior to August 15 of each year through September 1, 2003:

(1) 25 percent of the state ceiling is available exclusively for reservations by issuers of qualified mortgage bonds;

(2) 11 percent of the state ceiling is available exclusively for reservations by issuers of state-voted issues;

(3) 7.5 percent of the state ceiling is available exclusively for reservations by issuers of qualified small issue bonds and enterprise zone facility bonds;

(4) 16.5 percent of the state ceiling is available exclusively for reservations by issuers of qualified residential rental projects bonds;

(5) 10.5 percent of the state ceiling is available exclusively for reservations by issuers of qualified student loan bonds authorized by section 53.47, Education Code; and

(6) 29.5 percent of the state ceiling is available exclusively for reservations by any other issuer of bonds that require an allocation. The board shall issue 2 percent of the allocation based on a priority level for projects for the development of new drinking water sources.

**HB 3348 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Averitt called up with senate amendments for consideration at this time,

HB 3348, A bill to be entitled An Act relating to the Texas Energy Resource Council; authorizing the imposition of an assessment on producers of oil, gas, and condensate.

Representative Averitt moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3348**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3348**: Counts, chair, Chisum, Hawley, Merritt, and Crownover.

**HB 3383 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Y. Davis called up with senate amendments for consideration at this time,

HB 3383, A bill to be entitled An Act relating to the exemption from ad valorem taxation for certain community housing development organizations.

On motion of Representative Y. Davis, the house concurred in the senate amendments to **HB 3383**.

Senate Committee Substitute

CSHB 3383, A bill to be entitled An Act relating to the exemption from ad valorem taxation for certain community housing development organizations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 11.182, Tax Code, is amended to read as follows:

Sec. 11.182. COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS IMPROVING PROPERTY FOR LOW-INCOME AND MODERATE-INCOME HOUSING. (a) In this section:

(1) "Cash flow" means the amount of money received by a community housing development organization from a housing project for a fiscal year less the organization's disbursements for that fiscal year associated with the project, including disbursements for:

(A) standard property maintenance;

(B) debt service;

(C) employee compensation;

(D) fees required by government agencies;

(E) reserves required by lenders;

(F) insurance; and

(G) other justifiable expenses related to the operation and maintenance of the project.

(2) "Community housing development organization" has the meaning assigned by 42 U.S.C. Section 12704.

(b) An organization is entitled to an exemption from taxation of improved or unimproved real property it owns if the organization:

(1) is organized as a community housing development organization;

(2) meets the requirements of a charitable organization provided by Sections 11.18(e) and (f);

(3) owns the property for the purpose of building or repairing housing on the property to sell without profit to a low-income or moderate-income individual or family satisfying the organization's eligibility requirements or to rent without profit to such an individual or family; and

(4) engages exclusively in the building, repair, and sale or rental of housing as described by Subdivision (3) and related activities.

(c) ~~[(b)]~~ Property owned by the organization may not be exempted under Subsection (b) ~~[(a)]~~ after the third anniversary of the date the organization acquires the property unless the organization is offering to rent or is renting the property without profit to a low-income or moderate-income individual or family satisfying the organization's eligibility requirements.

(d) A multi-family rental property consisting of 36 or more dwelling units owned by the organization that is exempted under Subsection (b) may not be exempted in a subsequent tax year unless in the preceding tax year the organization spent an amount equal to at least 50 percent of the total amount of taxes that would have been imposed on the property without the exemption in that year on social, educational, or economic development services for eligible persons in the county in which the property is located. This subsection does not apply to property acquired by the organization using tax-exempt bond financing after January 1, 1997, and before December 31, 2001.

(e) In addition to meeting the applicable requirements of Subsections (b) and (c), to receive an exemption under Subsection (b) for improved real property that includes a housing project the construction of which was financed with private activity tax-exempt bonds or low-income housing tax credits, the organization must:

(1) control 100 percent of the interest in the general partner if the project is owned by a limited partnership;

(2) make available not less than 10 percent of the rental units to persons whose median income is at or below 30 percent of the area median family income;

(3) comply with all rules of and laws administered by the Texas Department of Housing and Community Affairs applicable to community housing development organizations; and

(4) submit annually to the Texas Department of Housing and Community Affairs and to the governing body of each taxing unit for which the project receives an exemption for the housing project evidence demonstrating that not less than 90 percent of the project's annual cash flow in the preceding fiscal year as determined by the audit required by Subsection (g) was spent by the organization on social, educational, or economic development services for eligible persons in the county in which the property is located.

~~(f) [e] A person claiming an exemption for property described under this section must comply with the requirements of Sections 11.43(a) and (b).~~

~~[(d)] An organization entitled to an exemption under Subsection (b) [(a)] is also entitled to an exemption from taxation of any building or tangible personal property the organization owns and uses in the administration of its acquisition, building, repair, sale, or rental of property. To qualify for an exemption under this subsection, property must be used exclusively by the organization, except that another person may use the property for activities incidental to the organization's use that benefit the beneficiaries of the organization.~~

(g) To receive an exemption under Subsection (b) or (f), an organization must annually have an audit prepared by an independent certified public accountant. The audit must include a detailed report on the organization's sources and uses of funds. A copy of the audit must be delivered to the Texas Department of Housing and Community Affairs and to the chief appraiser of the appraisal district in which the property subject to the exemption is located.

~~[(e) In this section "community housing development organization" has the meaning assigned that term by 42 U.S.C. Section 12704.]~~

SECTION 2. This Act takes effect January 1, 2002, and applies only to ad valorem taxes imposed on or after that date.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 3383** (Senate Committee Printing) as follows:

(1) In SECTION 1 of the bill, in amended Subsection (a), Section 11.182, Tax Code (page 1, lines 18-30), strike Subdivision (1) and substitute the following:

(1) "Cash flow" means the amount of money generated by a housing project for a fiscal year less the disbursements for that fiscal year for operation and maintenance of the project, including:

(A) standard property maintenance;

(B) debt service;

(C) employee compensation;

(D) fees required by government agencies;

(E) expenses incurred in satisfaction of requirements of lenders, including reserve requirements;

(F) insurance; and

(G) other justifiable expenses related to the operation and maintenance of the project.

(2) In SECTION 1 of the bill, in amended Section 11.182, Tax Code (page 1, line 54, through page 2, line 22), strike Subsections (d) and (e) and substitute the following:

(d) A multifamily rental property consisting of 36 or more dwelling units owned by the organization that is exempted under Subsection (b) may not be exempted in a subsequent tax year unless in the preceding tax year the organization spent, for eligible persons in the county in which the property is located, an amount equal to at least 40 percent of the total amount of taxes that would have been imposed on the property in that year without the exemption on social, educational, or economic development services, capital improvement projects, or rent reduction. This subsection does not apply to property acquired by the organization using tax-exempt bond financing after January 1, 1997, and before December 31, 2001.

(e) In addition to meeting the applicable requirements of Subsections (b) and (c), to receive an exemption under Subsection (b) for improved real property that includes a housing project constructed after December 31, 2001, and financed with qualified 501(c)(3) bonds issued under Section 145 of the Internal Revenue Code of 1986, tax-exempt private activity bonds subject to volume cap, or low-income housing tax credits, the organization must:

(1) control 100 percent of the interest in the general partner if the project is owned by a limited partnership;

(2) comply with all rules of and laws administered by the Texas Department of Housing and Community Affairs applicable to community housing development organizations; and

(3) submit annually to the Texas Department of Housing and Community Affairs and to the governing body of each taxing unit for which the project receives an exemption for the housing project evidence demonstrating that the organization spent an amount equal to at least 90 percent of the project's cash flow in the preceding fiscal year as determined by the audit required by Subsection (g), for eligible persons in the county in which the property is located, on social, educational, or economic development services, capital improvement projects, or rent reduction.

(3) In SECTION 1 of the bill, in amended Section 11.182, Tax Code, in added Subsection (g) (page 2, line 37), strike "certified public accountant" and substitute "auditor".

(4) In SECTION 1 of the bill, in amended Section 11.182, Tax Code, following added Subsection (g) (page 2, between lines 41 and 42), add the following:

(h) Subsections (d) and (e)(3) do not apply to property owned by an organization if:

(1) the entity that provided the financing for the acquisition or construction of the property:

(A) requires the organization to make payments in lieu of taxes to the school district in which the property is located; or

(B) restricts the amount of rent the organization may charge for dwelling units on the property; or

(2) the organization has entered into an agreement with each taxing unit for which the property receives an exemption to spend in each tax year for the purposes provided by Subsection (d) or (e)(3) an amount equal to the total amount of taxes imposed on the property in the tax year preceding the year in which the organization acquired the property.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today to attend a meeting of the conference committee on **HB 3305**:

Martinez Fischer on motion of Hope.

(Pitts now present)

HB 3404 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Truitt called up with senate amendments for consideration at this time,

HB 3404, A bill to be entitled An Act relating to the classification of the use of water for purposes of fees and regulations imposed by, and the repeal of certain statutes applicable to, the Edwards Aquifer Authority.

On motion of Representative Truitt, the house concurred in the senate amendments to **HB 3404** by (Record 600): 105 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chisum; Christian; Clark; Corte; Crabb; Craddick; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; Geren; Glaze; Goodman; Gray; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Heflin; Hill; Hinojosa; Hodge; Homer; Hope; Hopson; Hunter; Hupp; Jones, E.; Jones, J.; Keffer; King, P.; Kitchen; Kolkhorst; Kuempel; Lewis, G.; Longoria; Luna; Madden; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Noriega; Oliveira; Olivo; Pickett; Pitts; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Solomons; Swinford; Talton; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; West; Wohlgemuth; Woolley.

Present, not voting — Mr. Speaker; Bosse(C).

Absent, Excused — Capelo; Crownover; Hawley; Hilbert; Hilderbran; Isett; Janek; Jones, D.; Miller; Walker; Williams; Zbranek.

Absent, Excused, Committee Meeting — Chavez; Cook; Counts; Hochberg; King, T.; Lewis, R.; Marchant; Martinez Fischer; Puente; Sadler; Tillery.

Absent — Coleman; Dunnam; George; Giddings; Goolsby; Green; Grusendorf; Howard; Junell; Keel; Krusee; Nixon; Smithee; Solis; Telford; Thompson; Wilson; Wise; Wolens; Yarbrough.

STATEMENT OF VOTE

When Record No. 600 was taken, I was in the house but away from my desk. I would have voted yes.

Krusee

Senate Committee Substitute

CSHB 3404, A bill to be entitled An Act relating to the classification of the use of water for purposes of fees and regulations imposed by the Edwards Aquifer Authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1.03, Chapter 626, Acts of the 73rd Legislature, regular Session 1993, is amended by adding Subdivisions (26) and (27) to read as follows:

(26) "Agricultural use" means any use or activity involving any of the following activities:

(A) cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;

(B) the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or nonsoil media, by a nursery grower;

(C) raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;

(D) wildlife management;

(E) raising or keeping equine animals; or

(F) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in a governmental program or normal crop or livestock rotation procedures.

(27) "Nursery grower" means a person who grows more than 50 percent of the products that the person either sells or leases, regardless of the variety sold, leased, or grown. For the purpose of this definition, "grow" means the actual cultivation or propagation of the product beyond the mere holding or maintaining of the item before sale or lease and typically includes activities associated with the production or multiplying of stock, such as the development of new plants from cuttings, grafts, plugs, or seedlings.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the votes necessary for immediate effect, this Act takes effect September 1, 2001.

HR 1301 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the chair announced the introduction of **HR 1301**, suspending the limitations on the conferees for **HB 658**.

HB 3244 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Gallego called up with senate amendments for consideration at this time,

HB 3244, A bill to be entitled An Act relating to authorizing the Texas Department of Health to temporarily transfer money appropriated for the purpose of a tobacco endowment program administered by the department to use for another tobacco endowment program administered by the department.

Representative Gallego moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3244**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3244**: Gallego, chair, Goodman, Eiland, Heflin, and Glaze.

**HB 3441 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Gallego called up with senate amendments for consideration at this time,

HB 3441, A bill to be entitled An Act relating to special license plates for certain government officials.

On motion of Representative Gallego, the house concurred in the senate amendments to **HB 3441**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3441** by striking SECTION 5 of the bill and substituting the following:

SECTION 5. Section 502.297(g), Transportation Code, is amended to read as follows:

(g) In this section:

(1) "Federal judge" means:

(A) a judge of the Fifth Circuit Court of Appeals;

(B) a judge [~~or a magistrate~~] of a United States district court;

or

(C) a judge of a United States bankruptcy court.

(2) "State judge" means:

(A) a justice of the supreme court;

(B) a judge of the court of criminal appeals;

(C) a judge of a court of appeals;

(D) [~~(B)~~] a district court judge; or

(E) [~~(C)~~] a presiding judge of an administrative judicial district[~~;~~ or]

[~~(D)~~ a statutory county court judge].

(Speaker in the chair)

**HB 3451 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Gallego called up with senate amendments for consideration at this time,

HB 3451, A bill to be entitled An Act relating to the continuation and functions of the Texas State Affordable Housing Corporation.

On motion of Representative Gallego, the house concurred in the senate amendments to **HB 3451** by (Record 601): 106 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chisum; Christian; Clark; Corte; Crabb; Craddick; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Glaze; Goodman; Gray; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hefflin; Hill; Hinojosa; Hodge; Homer; Hope; Hopson; Hunter; Hupp; Jones, E.; Jones, J.; Junell; Keffer; King, P.; Kitchen; Krusee; Kuempel; Lewis, G.; Longoria; Luna; Madden; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Noriega; Olivo; Pickett; Pitts; Ramsay; Rangel; Raymond; Reyna, A.; Ritter; Salinas; Seaman; Shields; Smith; Smithe; Solis; Solomons; Swinford; Talton; Telford; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; West; Wohlgenuth.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Capelo; Crownover; Hawley; Hilbert; Hilderbran; Isett; Janek; Jones, D.; Miller; Walker; Williams; Zbrank.

Absent, Excused, Committee Meeting — Chavez; Cook; Counts; Hochberg; King, T.; Lewis, R.; Marchant; Martinez Fischer; Puente; Sadler; Tillery.

Absent — Bailey; Coleman; Danburg; Dunnam; Geren; Giddings; Goolsby; Green; Howard; Keel; Kolkhorst; Nixon; Oliveira; Reyna, E.; Thompson; Wilson; Wise; Wolens; Woolley; Yarbrough.

STATEMENT OF VOTE

When Record No. 601 was taken, I was in the house but away from my desk. I would have voted yes.

Oliveira

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3451** (Senate Committee Printing) by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION _____. Subchapter B, Chapter 1372, Government Code, is amended by adding Section 1372.0221 to read as follows:

Sec. 1372.0221. DEDICATION OF PORTION OF STATE CEILING FOR TEACHERS HOME LOAN PROGRAM. Out of that portion of the state ceiling that is available exclusively for reservations by issuers of qualified mortgage bonds under Section 1372.022, \$25 million shall be allotted each year and made available exclusively to the Texas State Affordable Housing Corporation for the purpose of issuing qualified mortgage bonds in connection with the teachers home loan program established under Section 2306.562.

SECTION _____. Sections 2306.553(a) and (b), Government Code, are amended to read as follows:

(a) The public purpose of the corporation is to perform activities and services that the corporation's board of directors determines will promote the public health, safety, and welfare through the provision of adequate, safe, and sanitary housing primarily for individuals and families of low, very low, and extremely low income, and for teachers under the teachers home loan program as provided by Section 2306.562. The activities and services shall include engaging in mortgage banking activities and lending transactions and acquiring, holding, selling, or leasing real or personal property.

(b) The corporation's primary public purpose is to facilitate the provision of housing and the making of affordable loans to individuals and families of low, very low, and extremely low income, and to teachers under the teachers home loan program. The corporation may make first lien, single family purchase money mortgage loans for single family homes only to individuals and families of low, very low, and extremely low income if the individual's or family's household income is not more than the greater of 60 percent of the median income for the state, as defined by the United States Department of Housing and Urban Development, or 60 percent of the area median family income, adjusted for family size, as defined by that department. The corporation may make loans for multifamily developments if:

(1) at least 40 percent of the units in a multifamily development are affordable to individuals and families with incomes at or below 60 percent of the median family income, adjusted for family size; or

(2) at least 20 percent of the units in a multifamily development are affordable to individuals and families with incomes at or below 50 percent of the median family income, adjusted for family size.

SECTION _____. Subchapter Y, Chapter 2306, Government Code, is amended by adding Section 2306.562 to read as follows:

Sec. 2306.562. TEACHERS HOME LOAN PROGRAM. (a) In this section:

(1) "Home" means a dwelling in this state in which a teacher intends to reside as the teacher's principal residence.

(2) "Mortgage lender" has the meaning assigned by Section 2306.004.

(3) "Program" means the teachers home loan program.

(4) "Teacher" means a person who is a classroom teacher as defined by Section 5.001, Education Code.

(b) The corporation shall establish a program to provide eligible teachers whose income does not exceed 115% of area median family income, adjusted for family size, with low-interest home mortgage loans.

(c) To be eligible for a loan under this section, a teacher must:

(1) have been residing in this state for the five-year period preceding the date the teacher files an application for a loan under this section;

(2) have been working as a teacher for the three-year period preceding the application date; and

(3) reside in this state on the application date.

(d) The corporation may contract with other agencies of the state or with private entities to determine whether applicants qualify as teachers under this section or otherwise to administer all or part of this section.

(e) The board of directors of the corporation may set and collect from each applicant any fees the board considers reasonable and necessary to cover the expenses of administering the program.

(f) The board of directors of the corporation shall adopt rules governing:

(1) the administration of the program;

(2) the making of loans under the program;

(3) the criteria for approving mortgage lenders;

(4) the use of insurance on the loans and the homes financed under the program, as considered appropriate by the board to provide additional security for the loans;

(5) the verification of occupancy of the home by the teacher as the teacher's principal residence; and

(6) the terms of any contract made with any mortgage lender for processing, originating, servicing, or administering the loans.

(g) The corporation shall ensure that a loan under this section is structured in a way that complies with any requirements associated with the source of the funds used for the loan.

(h) In addition to funds set aside for the program under Section 1372.0221, the corporation may solicit and accept funding for the program from the following sources:

(1) gifts and grants for the purposes of this section;

(2) available money in the housing trust fund established under Section 2306.201, to the extent available to the corporation;

(3) federal block grants that may be used for the purposes of this section, to the extent available to the corporation;

(4) other state or federal programs that provide money that may be used for the purposes of this section; and

(5) amounts received by the corporation in repayment of loans made under this section.

(i) This section expires September 1, 2012.

SECTION _____. The Texas State Affordable Housing Corporation shall:

(1) give priority to a teacher who resides or teaches in an area of the state with a teacher shortage, as determined by the commissioner of education;

(2) aggressively pursue funding for the teachers home loan program required by Section 2306.562, Government Code, as added by this Act; and

(3) implement the teachers home loan program required by that section not later than September 1, 2002.

SECTION _____. (a) If the legislature finds in a scheduled review of the Texas State Affordable Housing Corporation by the Sunset Advisory Commission under Section 2306.5521, Government Code, that the teachers home loan program under Section 2306.562, Government Code, as added by this Act, is not being managed to accomplish the goal of providing low-interest home mortgage loans to teachers, the legislature shall make specific recommendations to remedy any problems.

(b) If the legislature finds in a scheduled review of the Texas State Affordable Housing Corporation by the Sunset Advisory Commission under Section 2306.5521, Government Code, that the corporation should be abolished, the teachers home loan program under Section 2306.562, Government Code, as added by this Act, shall be transferred to another appropriate state agency.

**HB 3458 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Brimer called up with senate amendments for consideration at this time,

HB 3458, A bill to be entitled An Act relating to the operation of the Texas Workers' Compensation Insurance Fund as a domestic mutual insurance company and to the continuation of that entity as the Texas Mutual Insurance Company.

On motion of Representative Brimer, the house concurred in the senate amendments to **HB 3458**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend Engrossed **HB 3458** in Section 1.01 of the bill by striking the text beginning on page 34, line 12 and ending on page 37, line 22.

**SCR 70 - ADOPTED
(West - House Sponsor)**

Representative West moved to suspend all necessary rules to take up and consider at this time **SCR 70**.

The motion prevailed without objection.

The following resolution was laid before the house:

SCR 70

WHEREAS, **SB 1672** has passed the Texas Senate and the Texas House of Representatives and is now in the office of the governor; and

WHEREAS, Further consideration of the bill by the senate and the house of representatives is necessary; now, therefore, be it

RESOLVED by the 77th Legislature of the State of Texas, That the governor be hereby requested to return **SB 1672** to the house for further consideration; and, be it further

RESOLVED, That the action of the President of the Senate and the Speaker of the House in signing **SB 1672** be declared null and void and that the two presiding officers be authorized to remove their signatures from the enrolled bill.

SCR 70 was adopted without objection.

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **SB 2**:

Kolkhorst on motion of Ehrhardt.

The following member was granted leave of absence for the remainder of today because of important business in the district:

Green on motion of Howard.

**HB 3544 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Hope called up with senate amendments for consideration at this time,

HB 3544, A bill to be entitled An Act relating to the ratification of the creation of and to the administration, powers, duties, operation, and financing of the Cow Creek Groundwater Conservation District.

(Marchant now present)

On motion of Representative Hope, the house concurred in the senate amendments to **HB 3544** by (Record 602): 103 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berman; Bosse; Brimer; Brown, B.; Brown, F.; Callegari; Carter; Chisum; Christian; Clark; Crabb; Craddick; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Geren; Glaze; Goodman; Gray; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Heflin; Hill; Hinojosa; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; Kitchen; Krusee; Kuempel; Lewis, G.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solomons; Swinford; Talton; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; West; Wohlgemuth; Wolens; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Capelo; Crownover; Green; Hawley; Hilbert; Hilderbran; Isett; Janek; Jones, D.; Kolkhorst; Miller; Walker; Williams; Zbranek.

Absent, Excused, Committee Meeting — Chavez; Cook; Counts; Hochberg; King, T.; Lewis, R.; Martinez Fischer; Puente; Sadler; Tillery.

Absent — Bailey; Bonnen; Burnam; Coleman; Corte; Danburg; Denny; Dunnam; Eiland; Garcia; George; Giddings; Goolsby; Grusendorf; Najera; Ramsay; Solis; Telford; Thompson; Wilson; Wise; Yarbrough.

STATEMENT OF VOTE

When Record No. 602 was taken, I was in the house but away from my desk. I would have voted yes.

Burnam

Senate Committee Substitute

CSHB 3544, A bill to be entitled An Act relating to the ratification of the creation of and to the administration, powers, duties, operation, and financing of the Cow Creek Groundwater Conservation District.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. RATIFICATION OF CREATION. The creation by Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999 (**SB 1911**), of the Cow Creek Groundwater Conservation District in Kendall County is ratified as required by Section 15(a) of that Act, subject to approval at a confirmation election under Section 8 of this Act.

SECTION 2. DEFINITIONS. In this Act:

(1) "District" means the Cow Creek Groundwater Conservation District.

(2) "Retail public utility" means a retail public utility as defined by Section 13.002, Water Code, that is providing service in the district on the effective date of this Act.

(3) "Well" includes any excavation drilled or dug into the ground that may intercept or penetrate a water bearing strata or formation.

SECTION 3. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Kendall County, Texas.

SECTION 4. GENERAL POWERS. (a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. This Act prevails over any provision of general law that is in conflict or inconsistent with this Act, including any provision of Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999 (**SB 1911**).

(b) Notwithstanding Subsection (a), the following provisions prevail over a conflicting or inconsistent provision of this Act:

- (1) Sections 36.1071-36.108, Water Code;
- (2) Sections 36.159-36.161, Water Code; and
- (3) Subchapter I, Chapter 36, Water Code.

SECTION 5. BOARD OF DIRECTORS. (a) The district is governed by a board of five directors.

(b) Temporary directors serve until initial directors are elected under Section 8 of this Act.

(c) Initial directors serve until permanent directors are elected under Section 10 of this Act.

(d) Permanent directors serve staggered four-year terms.

(e) Each director must qualify to serve as director in the manner provided by Section 36.055, Water Code.

(f) A director serves until the director's successor has qualified.

(g) If there is a vacancy on the board, the remaining directors shall appoint a director to serve until the next election for directors. At the next election for directors, a person shall be elected to fill the position. If the position is not scheduled to be filled at the election, the person elected to fill the position shall serve only for the remainder of the unexpired term.

SECTION 6. METHOD OF ELECTING DIRECTORS. (a) The directors of the district shall be elected according to the commissioners precinct method as provided by this section.

(b) One director shall be elected by the qualified voters of the entire district, and one director shall be elected from each county commissioners precinct by the qualified voters of that precinct.

(c) To be qualified to be a candidate for or to serve as a director at large, a person must be a registered voter in the district. To be qualified to be a candidate for or to serve as a director from a county commissioners precinct, a person must be a registered voter of that precinct.

(d) A person shall indicate on the application for a place on the ballot:

(1) the precinct that the person seeks to represent; or

(2) that the person seeks to represent the district at large.

(e) At the first election after the county commissioners precincts are redrawn under Section 18, Article V, Texas Constitution, four new directors shall be elected to represent the precincts. The directors elected shall draw lots to determine which two directors serve two-year terms and which two directors serve four-year terms.

SECTION 7. TEMPORARY DIRECTORS. (a) The temporary board of directors shall be appointed by the county commissioners court. The county commissioners court shall appoint a temporary director from each commissioners precinct and one director at large.

(b) If a temporary director fails to qualify for office, the temporary directors who have qualified shall appoint a person to fill the vacancy. If at any time there are fewer than three qualified directors, the Texas Natural Resource Conservation Commission shall appoint the necessary number of persons to fill all vacancies on the board.

SECTION 8. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.

(a) The temporary board of directors shall call and hold an election to confirm establishment of the district and to elect initial directors.

(b) At the confirmation and initial directors' election, the temporary board of directors shall have placed on the ballot the names of the five temporary directors, the name of any other candidate filing for an initial director's position, and blank spaces to write in the names of other persons.

(c) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors' election held as provided by this section.

(d) Except as provided by this section, a confirmation and initial directors' election must be conducted as provided by Sections 36.017(b)-(h), Water Code, and the Election Code.

(e) If a majority of the votes cast at the election held under this section is against the confirmation of the district, the temporary directors may not call another election under this section before the first anniversary of that election.

(f) If a majority of the votes cast at the election held under this section is in favor of the creation of the district, the temporary directors shall declare the district created.

(g) If the district is created at the confirmation election, the temporary directors, at the time the vote is canvassed, shall declare the candidate receiving the most votes from each commissioners precinct and at large to be elected as initial directors.

(h) The temporary directors shall file a copy of the election results with the Texas Natural Resource Conservation Commission.

SECTION 9. TERMS OF OFFICE OF INITIAL DIRECTORS. The initial directors for precincts 2 and 3 shall serve as initial directors until the first

regular meeting of the board of directors held after the first permanent director's election under Section 10 of this Act. The initial directors for precincts 1 and 4 and the initial director representing the district at large shall serve as initial directors until the first regular meeting of the board of directors held after the second permanent director's election under Section 10 of this Act.

SECTION 10. ELECTION OF DIRECTORS. Beginning in the second year after the year in which the creation of the district is confirmed at a confirmation election, an election shall be held in the district on the first Saturday in May every second year to elect the appropriate number of directors to the board.

SECTION 11. ADDITIONAL AUTHORITY. (a) The district may contract with one or more state agencies or other governmental bodies, including a county, a river authority, or another district to carry out any function of the district.

(b) The district may require a drilling permit before a new well is drilled or an existing well is substantially altered. Notwithstanding an exemption for a well under Section 36.117, Water Code, written authorization from the district must be received before a new well is drilled or an existing well is substantially altered.

(c) The district may participate in the construction, implementation, and maintenance of best management practices for water resource management in the district and may engage in and promote the acceptance of best management practices through education efforts sponsored by the district. Construction, implementation, and maintenance of best management practices must address water quantity and quality practices such as brush management, prescribed grazing, recharge structures, water and silt detention and retention structures, plugging of abandoned wells, rainwater harvesting, and other treatment measures for the conservation of water resources.

(d) Reasonable fees, as determined by the district, may be imposed on an annual basis on each nonexempt well. The district shall adopt any rules necessary for the assessment and collection of fees under this subsection.

(e) The district may use money collected from fees:

(1) in any manner necessary for the management and operation of the district;

(2) to pay all or part of the principal of and interest on district bonds or notes; and

(3) for any purpose consistent with the district's certified water management plan.

(f) The district shall adopt rules providing for granting exemptions from ad valorem taxes on property on which a water conservation initiative has been implemented. The rules adopted by the district must be consistent with the rules adopted by the comptroller to implement Section 11.32, Tax Code.

(g) The rules must provide that a retail public utility is eligible to receive an exemption from ad valorem taxes on property on the same grounds as for any other district customer. To encourage retail public utilities to obtain water supplies from sources other than groundwater, the rules adopted by the district under Subsection (f) must include an exemption from ad valorem taxes on property served by a retail public utility based on:

(1) the percentage of potable water supplied within the district by the retail public utility from sources other than groundwater compared to the total water supplied by the retail public utility for the preceding year; and

(2) the percentage of wastewater effluent produced by the retail public utility that is used as reclaimed water within the district compared to the total wastewater effluent produced by the retail public utility for the preceding year.

(h) The district may consider the impact of floods and equipment breakage upon the retail public utility's ability to supply water from sources other than groundwater.

(i) The total amount of the exemption from ad valorem taxes shall not exceed one-half of the tax imposed by the district.

SECTION 12. PROHIBITED ACTS. The district may not:

(1) impose an ad valorem tax for administrative, operation, or maintenance expenses that exceeds the lesser of the rate approved by the majority of the qualified voters voting in an election authorizing the tax or three cents per \$100 of assessed valuation;

(2) require the owner of a well used solely for domestic or livestock purposes to install a meter or measuring device on the well;

(3) sell, transport, or export groundwater outside of the district;

(4) enter into a contract or engage in an action to supply water to a person in the service area of any municipality or retail public utility located in the district, except with the express permission of the municipality or retail public utility; or

(5) issue before September 1, 2004, any bonds secured by ad valorem taxes.

SECTION 13. VALIDATION. (a) Any act or proceeding taken by or on behalf of the Cow Creek Groundwater Conservation District before the effective date of this Act is validated in all respects as if the act or proceeding had occurred as authorized by law.

(b) Subsection (a) does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court of competent jurisdiction; or

(2) has been held invalid by a final judgment of a court of competent jurisdiction.

SECTION 14. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS. (a) The proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and other laws of this state, including the governor, who has submitted the notice and Act to the Texas Natural Resource Conservation Commission.

(b) The Texas Natural Resource Conservation Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(c) All requirements of the constitution and laws of this state and the rules

and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 15. EXPIRATION DATE; EFFECTIVE DATE. (a) If the creation of the district is not confirmed at a confirmation election held under Section 8 of this Act before September 1, 2003, this Act expires on that date.

(b) This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

HB 3586 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hartnett called up with senate amendments for consideration at this time,

HB 3586, A bill to be entitled An Act relating to an additional fee for filing civil cases in certain Dallas County courts.

On motion of Representative Hartnett, the house concurred in the senate amendments to **HB 3586** by (Record 603): 100 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Callegari; Carter; Chisum; Christian; Clark; Crabb; Danburg; Davis, J.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Elkins; Ellis; Farabee; Flores; Gallego; Glaze; Goodman; Goolsby; Gray; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Heflin; Hill; Hinojosa; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; Kitchen; Krusee; Kuempel; Lewis, G.; Longoria; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, J.; Morrison; Mowery; Naishtat; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Truitt; Turner, B.; Turner, S.; Uher; Uresti; West; Wohlgemuth.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Capelo; Crownover; Green; Hawley; Hilbert; Hilderbran; Issett; Janek; Jones, D.; Kolkhorst; Miller; Walker; Williams; Zbranek.

Absent, Excused, Committee Meeting — Chavez; Cook; Counts; Hochberg; King, T.; Lewis, R.; Martinez Fischer; Puente; Sadler; Tillery.

Absent — Bailey; Burnam; Coleman; Corte; Craddick; Davis, Y.; Dunnam; Eiland; Farrar; Garcia; George; Geren; Giddings; Luna; Moreno, P.; Najera; Ramsay; Telford; Thompson; Villarreal; Wilson; Wise; Wolens; Woolley; Yarbrough.

STATEMENTS OF VOTE

When Record No. 603 was taken, I was in the house but away from my desk. I would have voted yes.

Burnam

When Record No. 603 was taken, my vote failed to register. I would have voted yes.

Villarreal

Senate Committee Substitute

CSHB 3586, A bill to be entitled An Act relating to an additional fee for filing civil cases in certain Dallas County courts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter H, Chapter 51, Government Code, is amended by adding Section 51.705 to read as follows:

Sec. 51.705. ADDITIONAL FILING FEE FOR DALLAS COUNTY CIVIL COURTS. (a) In this section, "Dallas County civil court" means a district court, including a family district court, a probate court, a county court at law, or a justice court in Dallas County. The term does not include a small claims court.

(b) In addition to all other fees authorized or required by other law, the clerk of a Dallas County civil court shall collect a filing fee of not more than \$15 in each civil case filed in the court to be used for the construction, renovation, or improvement of the facilities that house the Dallas County civil courts.

(c) Court fees due under this section shall be collected in the same manner as other fees, fines, or costs are collected in the case.

(d) The clerk shall send the fees collected under this section to the county treasurer at least as frequently as monthly. The treasurer shall deposit the fees in a special account in the county treasury dedicated to the construction, renovation, or improvement of the facilities that house the Dallas County civil courts.

(e) This section applies only to fees for a 12-month period beginning July 1, if the commissioners court:

(1) adopts a resolution authorizing a fee of no more than \$15;

(2) adopts a resolution requiring the county to spend one dollar for the construction, renovation, or improvement of the courts' facilities for each dollar spent from the special account dedicated to that purpose; and

(3) files the resolutions with the county treasurer not later than June 1 immediately preceding the first 12-month period during which the fees are to be collected.

(f) A resolution adopted under Subsection (e) continues from year to year until July 1, 2016, allowing the county to collect fees under the terms of this section until the resolution is rescinded.

(g) The commissioners court may rescind a resolution adopted under Subsection (e) by adopting a resolution rescinding the resolution and submitting the rescission resolution to the county treasurer not later than June 1 preceding the beginning of the first day of the county fiscal year. The commissioners court may adopt an additional resolution in the manner provided by Subsection (e) after rescinding a previous resolution under that subsection.

(h) A fee established under a particular resolution is abolished on the earlier of:

(1) the date a resolution adopted under Subsection (e) is rescinded as provided by Subsection (g); or

(2) July 1, 2016.

(i) The county may make the required expenditure described by Subsection (e)(2) at any time, regardless of when the expenditure from the special account occurs.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

HB 3587 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hope called up with senate amendments for consideration at this time,

HB 3587, A bill to be entitled An Act relating to the exemption from permitting requirements for certain wells in a groundwater conservation district.

On motion of Representative Hope, the house concurred in the senate amendments to **HB 3587**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 3587** in SECTION 1, as follows:

(1) On page 4, line 26, between "rules" and "of" insert "applicable to all permitted water wells".

(2) On page 5, between lines 16 and 17, insert the following:

"(k) Groundwater withdrawn from a well exempt from permitting or regulation under this section and subsequently transported outside the boundaries of the district shall be subject to any applicable production and export fees under Sections 36.122 and 36.205.

(l) This chapter applies to water wells, including water wells used to supply water for activities related to the exploration or production of hydrocarbons or minerals. This chapter does not apply to production or injection wells drilled for oil, gas, sulphur, uranium, or brine, or for core tests, or for injection of gas, saltwater, or other fluids, under permits issued by the Railroad Commission of Texas."

HB 3591 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hunter called up with senate amendments for consideration at this time,

HB 3591, A bill to be entitled An Act relating to including certain libraries of nonprofit corporations in the TexShare consortium and authorizing grants from the telecommunications infrastructure fund to those libraries.

On motion of Representative Hunter, the house concurred in the senate amendments to **HB 3591**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3591** by Hunter as follows: (1) at page 3, line 23 by adding new SECTION 7 to read as follows and renumbering the current SECTIONS of the bill accordingly.

SECTION 7. Subsection (a), Section 58.253, Utilities Code, is amended to read as follows:

(a) On customer request, an electing company shall provide private network services to:

- (1) an educational institution;
- (2) a library; as defined in 57.042(6)(A) and (B);
- (3) a nonprofit telemedicine center;
- (4) a public or not-for-profit hospital;
- (5) a project eligible to have been funded by the telecommunications infrastructure fund under Subchapter C, Chapter 57, as of January 1, 2001;
or

(6) a legally constituted consortium or group of entities listed in this subsection.

**HB 3600 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Uresti called up with senate amendments for consideration at this time,

HB 3600, A bill to be entitled An Act relating to the confidentiality of records regarding the compliance monitoring of physicians by the Texas State Board of Medical Examiners.

On motion of Representative Uresti, the house concurred in the senate amendments to **HB 3600** by (Record 604): 110 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Callegari; Carter; Chisum; Christian; Clark; Crabb; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Heflin; Hill; Hinojosa; Hodge; Homer; Hope; Hopson; Hunter; Hupp; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; Kitchen; Krusee; Kuempel; Lewis, G.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McReynolds; Menendez; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega; Olivo; Pickett; Pitts; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; West; Wohlgemuth; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Capelo; Crownover; Green; Hawley; Hilbert; Hilderbran; Isett; Janek; Jones, D.; Kolkhorst; Miller; Walker; Williams; Zbranek.

Absent, Excused, Committee Meeting — Chavez; Cook; Counts; Hochberg; King, T.; Lewis, R.; Martinez Fischer; Puente; Sadler; Tillery.

Absent — Bailey; Burnam; Coleman; Corte; Craddick; Dunnam; George; Howard; McClendon; Najera; Oliveira; Wilson; Wise; Wolens; Yarbrough.

Senate Committee Substitute

CSHB 3600, A bill to be entitled An Act relating to the confidentiality of records regarding the compliance monitoring of physicians by the Texas State Board of Medical Examiners.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 160.006(a), Occupations Code, is amended to read as follows:

(a) A record, report, or other information received and maintained by the board under this subchapter or Subchapter B, including any material received or developed by the board during an investigation or hearing and the identity of, and reports made by, a physician performing or supervising compliance monitoring for the board, is confidential. The board may disclose this information only:

(1) in a disciplinary hearing before the board or in a subsequent trial or appeal of a board action or order;

(2) to the physician licensing or disciplinary authority of another jurisdiction, to a local, state, or national professional medical society or association, or to a medical peer review committee located inside or outside this state that is concerned with granting, limiting, or denying a physician hospital privileges;

(3) under a court order; or

(4) to qualified personnel for bona fide research or educational purposes, if personally identifiable information relating to any physician or other individual is first deleted.

SECTION 2. Section 164.007(c), Occupations Code, is amended to read as follows:

(c) Each complaint, adverse report, investigation file, other investigation report, and other investigative information in the possession of or received or gathered by the board or its employees or agents relating to a license holder, an application for license, or a criminal investigation or proceeding is privileged and confidential and is not subject to discovery, subpoena, or other means of legal compulsion for release to anyone other than the board or its employees or agents involved in discipline of a license holder. For purposes of this subsection, investigative information includes information relating to the identity of, and a report made by, a physician performing or supervising compliance monitoring for the board.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

HB 3639 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Danburg called up with senate amendments for consideration at this time,

HB 3639, A bill to be entitled An Act relating to the expansion of the boundaries and the number of members of the board of the Upper Kirby Management District.

On motion of Representative Danburg, the house concurred in the senate amendments to **HB 3639**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 3639** (house engrossment) as follows:

(1) In SECTION 2 of the bill, strike amended Section 376.158(a), Local Government Code (page 64, lines 17-18), and substitute the following:

(a) Except as provided by this subsection, the [The] district is governed by a board of five directors. Directors [who] serve staggered four-year terms. The board by resolution may increase or decrease the number of directors to not more than nine and not fewer than five directors on a finding by a majority of the board that the change in the number of directors is in the best interest of the district.

(2) In SECTION 3 of the bill, strike added Section 376.159(b), Local Government Code (page 64, line 27 and page 65, lines 1-2), and substitute the following:

(b) The existing board shall appoint qualified persons to fill any new positions on the board created by an increase in the number of directors under Section 376.158(a) and shall provide for staggering the terms of directors serving in the new positions. On the expiration of the term of a director appointed under this subsection, a succeeding director shall be appointed and qualify as provided by Subsection (a).

(3) Strike Subsections (a) and (b) of SECTION 4 of the bill (page 65, lines 3-13) and substitute the following:

(a) Notwithstanding Section 376.159, Local Government Code, as amended by this Act, the following persons are appointed or reappointed to the board of the Upper Kirby Management District to fill the following positions:

- (1) Robert Axelson, position one;
- (2) Sharlet Matak, position two;
- (3) W. T. Dickey, position three;
- (4) Morris B. Penner, position four; and
- (5) Robert H. Schultz, position five.

(b) Notwithstanding Section 376.158(a), Local Government Code, as amended by this Act, the directors filling positions one and two serve until June 1, 2003, and the directors filling positions three, four, and five serve until June 1, 2005.

HB 3647 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Glaze called up with senate amendments for consideration at this time,

HB 3647, A bill to be entitled An Act relating to the creation of the Smith County Economic Development District; providing the authority to impose a tax and issue bonds.

On motion of Representative Glaze, the house concurred in the senate amendments to **HB 3647** by (Record 605): 106 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Callegari; Carter; Chisum; Christian; Clark; Crabb; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Driver; Dukes; Dutton; Edwards; Ehrhardt; Elkins; Ellis; Farabee; Flores; Gallego; Garcia; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Heflin; Hill; Hinojosa; Homer; Hope; Hopson; Howard; Hunter; Hupp; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; Kitchen; Krusee; Kuempel; Lewis, G.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McReynolds; Menendez; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Noriega; Oliveira; Olivo; Pickett; Pitts; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Telford; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; West; Wohlgemuth; Woolley; Yarbrough.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Capelo; Crownover; Green; Hawley; Hilbert; Hilderbran; Isett; Janek; Jones, D.; Kolkhorst; Miller; Walker; Williams; Zbranek.

Absent, Excused, Committee Meeting — Chavez; Cook; Counts; Hochberg; King, T.; Lewis, R.; Martinez Fischer; Puente; Sadler; Tillery.

Absent — Bailey; Burnam; Coleman; Corte; Craddick; Deshotel; Dunnam; Eiland; Farrar; George; Hodge; McClendon; Najera; Nixon; Talton; Thompson; Wilson; Wise; Wolens.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 3647** as follows:

- (1) On page 23 line 26, strike the word "RESIDENTIAL".
- (2) On page 23 line 26, create a subsection with existing language by inserting "(a)" between "PROPERTY." and "Because".
- (3) On page 24 between lines 3 and 4, insert a new subsection as follows:
"(b) The district may not impose an impact fee or assessment on the property, equipment, or facilities of a utility."

HB 3651 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Morrison called up with senate amendments for consideration at this time,

HB 3651, A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Goliad County Groundwater Conservation District.

On motion of Representative Morrison, the house concurred in the senate amendments to **HB 3651**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 3651** by adding a new section on appropriate page and line and renumbering subsequent sections.

REGIONAL COOPERATION. (a) In recognition of the need for uniform regional monitoring and regulation of common, scientifically recognized groundwater sources, and within designated management areas, the district shall establish rules:

- (1) requiring the permitting of all water wells that are:
 - (A) not exempted from permitting by Chapter 36, Water Code; and
 - (B) capable of producing in excess of 25,000 gallons per day;
- (2) providing for the prevention of waste, as defined by Section 36.001, Water Code;
- (3) providing for timely capping or plugging of abandoned wells; and
- (4) requiring reports to be filed with the district on all new, nonexempt water wells.

(b) Reports required under Subsection (a)(4) must include the driller's log, a description of the casing and pumping equipment installed, the capacity of the well so equipped, and the intended use of the water.

(c) To further regional continuity, the district shall:

- (1) seek to participate in at least one coordination meeting annually with each adjacent district that shares an aquifer with the district;
- (2) coordinate the collection of data with adjacent districts in a manner designed to achieve uniformity of data quality;
- (3) coordinate efforts to monitor water quality with adjacent districts, local governments, and state agencies;
- (4) investigate any groundwater pollution with the intention of locating its source and report its findings to adjacent districts and appropriate state agencies;
- (5) provide to adjacent districts annually an inventory of new water wells in the district and an estimate of groundwater production within the district; and
- (6) include adjacent districts on the mailing lists for district newsletters, seminars, public education events, news articles, and field days.

**HB 3652 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Morrison called up with senate amendments for consideration at this time,

HB 3652, A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Lavaca County Groundwater Conservation District.

On motion of Representative Morrison, the house concurred in the senate amendments to **HB 3652**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 3652** by adding a new Section on appropriate, page and line, and renumbering subsequent sections.

Section _____. **REGIONAL COOPERATION.** (a) In recognition of the need for uniform regional monitoring and regulation of common, scientifically recognized groundwater sources, and within designated management areas, the district shall establish rules:

(1) requiring the permitting of all water wells that are:

(A) not exempted from permitting by Chapter 36, Water Code; and

(B) capable of producing in excess of 25,000 gallons per day;

(2) providing for the prevention of waste, as defined by Section 36.001, Water Code;

(3) providing for timely capping or plugging of abandoned wells; and

(4) requiring reports to be filed with the district on all new, nonexempt water wells.

(b) Reports required under Subsection (a)(4) must include the driller's log, a description of the casing and pumping equipment installed, the capacity of the well so equipped, and the intended use of the water.

(c) To further regional continuity, the district shall:

(1) seek to participate in at least one coordination meeting annually with each adjacent district that shares an aquifer with the district;

(2) coordinate the collection of data with adjacent districts in a manner designed to achieve uniformity of data quality;

(3) coordinate efforts to monitor water quality with adjacent districts, local governments, and state agencies;

(4) investigate any groundwater pollution with the intention of locating its source and report its findings to adjacent districts and appropriate state agencies;

(5) provide to adjacent districts annually an inventory of new water wells in the district and an estimate of groundwater production within the district; and

(6) include adjacent districts on the mailing lists for district newsletters, seminars, public education events, news articles, and field days.

**HB 3655 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Morrison called up with senate amendments for consideration at this time,

HB 3655, A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Bluebonnet Groundwater Conservation District.

On motion of Representative Morrison, the house concurred in the senate amendments to **HB 3655**.

Senate Committee Substitute

CSHB 3655, A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Bluebonnet Groundwater Conservation District.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. CREATION. (a) A groundwater conservation district, to be known as the Bluebonnet Groundwater Conservation District, is created in Grimes, Washington, Waller, Austin, and Walker counties, subject to approval at a confirmation election under Section 15 of this Act. The district is a governmental agency and a body politic and corporate.

(b) The district is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

(c) The purpose of this Act is to create a locally controlled groundwater district in order to protect and recharge groundwater, to prevent pollution or waste of groundwater, to control subsidence caused by withdrawal of water from the groundwater reservoirs in the area, and to regulate the transport of water out of the boundaries of the district.

SECTION 2. DEFINITION. In this Act, "district" means the Bluebonnet Groundwater Conservation District.

SECTION 3. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Grimes, Washington, Waller, Austin, and Walker counties.

SECTION 4. FINDING OF BENEFIT. All of the land and other property included within the boundaries of the district will be benefitted by the works and projects that are to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution. The district is created to serve a public use and benefit.

SECTION 5. GENERAL POWERS. (a) Except as otherwise provided by this Act, the district has all the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. This Act prevails over any provision of general law, including Chapter 36, Water Code, that is in conflict or is inconsistent with this Act.

(b) The district does not have the authority granted by the following provisions of Chapter 36, Water Code:

(1) Section 36.105, relating to eminent domain; and

(2) Sections 36.020 and 36.201-36.204, relating to taxes.

SECTION 6. FEES. (a) The board of directors of the district by rule may impose reasonable fees on each well for which a permit is issued by the district and which is not exempt from regulation by the district. A fee may be based on the size of column pipe used by the well or on the actual, authorized, or anticipated amount of water to be withdrawn from the well.

(b) Fees may not exceed:

(1) \$1 per acre-foot payable annually for water used for agricultural use; or

(2) 17 cents per thousand gallons for water used for any other purpose.

(c) In addition to the fee authorized under Subsection (a) of this section, the district may impose a reasonable fee or surcharge for an export fee using one of the following methods:

- (1) a fee negotiated between the district and the transporter; or
- (2) a combined production and export fee not to exceed 17 cents per thousand gallons for water used.

(d) Fees authorized by this section may be assessed annually and may be used to fund the cost of district operations.

SECTION 7. EXEMPTIONS. (a) The district may exempt wells under Section 36.117, Water Code, from the requirements to obtain a drilling permit, an operating permit, or any other permit required by Chapter 36, Water Code, or the district's rules.

(b) The district may not require a permit for:

- (1) a well used solely for domestic use or for providing water for livestock or poultry on a tract of land larger than 10 acres that is either drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day;

- (2) the drilling of a water well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas, provided that the person holding the permit is responsible for drilling and operating the water well and the well is located on the same lease or field associated with the drilling rig; or

- (3) the drilling of a water well authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, or for production from any such well to the extent the withdrawals are required for mining activities regardless of any subsequent use of the water.

(c) The district may not deny the owner of a tract of land, or the owner's lessee, who does not have a well equipped to produce more than 25,000 gallons a day on the tract, either a permit to drill a well on the owner's land or the privilege to produce groundwater from the owner's land, subject to the rules of the district.

(d) The district may not restrict the production of any well that is exempt from permitting under Subsection (b)(1) of this section.

(e) Notwithstanding Subsection (b) of this section, the district may require a well to be permitted by the district and to comply with all district rules if:

- (1) the purpose of a well exempted under Subsection (b)(2) of this section is no longer solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas; or

- (2) the withdrawals from a well exempted under Subsection (b)(3) of this section are no longer necessary for mining activities or are greater than the amount necessary for mining activities specified in the permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code.

(f) An entity holding a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, that authorizes the drilling of a water well shall report monthly to the district:

- (1) the total amount of water withdrawn during the month;
- (2) the quantity of water necessary for mining activities; and
- (3) the quantity of water withdrawn for other purposes.

(g) Notwithstanding Subsection (e) of this section, the district may not

require a well exempted under Subsection (b)(3) of this section to comply with the spacing requirements of the district.

(h) The district may not deny an application for a permit to drill and produce water for hydrocarbon production activities if the application meets the spacing, density, and production rules applicable to all permitted water wells in the district.

(i) A water well exempted under Subsection (a) or (b) of this section may:

(1) be registered in accordance with rules adopted by the district; and

(2) be equipped and maintained so as to conform to the district's rules requiring installation of casing, pipe, and fittings to prevent the escape of groundwater from a groundwater reservoir to any reservoir not containing groundwater and to prevent the pollution or harmful alteration of the character of the water in any groundwater reservoir.

(j) The district may require the driller of a well exempted under Subsection (a) or (b) of this section to file the drilling log with the district.

(k) A well to supply water for a subdivision of land for which a plat approval is required by Chapter 232, Local Government Code, is not exempted under Subsection (b) of this section.

(l) Groundwater withdrawn from a well exempt from permitting or regulation under this section and subsequently transported outside the boundaries of the district is subject to any applicable production and export fees under Section 6 of this Act.

(m) This section applies to water wells, including water wells used to supply water for activities related to the exploration or production of hydrocarbons or minerals. This section does not apply to production or injection wells drilled for oil, gas, sulphur, uranium, or brine, for core tests, or for injection of gas, saltwater, or other fluids, under permits issued by the Railroad Commission of Texas.

SECTION 8. MITIGATION ASSISTANCE. In addition to the authority granted under Chapter 36, Water Code, the district may assist in the mediation between landowners regarding the mitigation of the loss of existing groundwater supply of exempt domestic and livestock users due to the groundwater pumping of others.

SECTION 9. MANAGEMENT PLAN. The district shall develop or contract to develop its own management plan under Section 36.1071, Water Code.

SECTION 10. PERMITTING. The district shall issue permits for wells based on the consideration of whether:

(1) the application conforms to the requirements prescribed by Chapter 36, Water Code, and is accompanied by the prescribed fees;

(2) the proposed use of water unreasonably affects existing groundwater and surface water resources or existing permit holders;

(3) the proposed use of water is dedicated to any beneficial use;

(4) the proposed use of water is consistent with the district's certified water management plan;

(5) the applicant has agreed to avoid waste and achieve water conservation; and

(6) the applicant has agreed that reasonable diligence will be used to

protect groundwater quality and that the applicant will follow well plugging guidelines at the time of well closure.

SECTION 11. COORDINATION OF ACTIVITIES WITH OTHER ENTITIES. (a) The district may coordinate activities with the Central Carrizo-Wilcox Coordinating Council and may appoint a nonvoting representative to the Central Carrizo-Wilcox Coordinating Council.

(b) The district may coordinate activities with the Harris-Galveston Coastal Subsidence District or with other groundwater conservation districts to manage portions of the Gulf Coast Aquifer.

SECTION 12. BOARD OF DIRECTORS. (a) The district is governed by a board of directors of not fewer than 8 or more than 20 directors, appointed as provided by Section 13 of this Act.

(b) Initial directors serve until permanent directors are appointed under Section 13 of this Act and qualified as required by Subsection (d) of this section.

(c) Permanent directors serve four-year staggered terms.

(d) Each director must qualify to serve as a director in the manner provided by Section 36.055, Water Code.

(e) A director serves until the director's successor has qualified.

(f) A director may serve consecutive terms.

(g) If there is a vacancy on the board, the governing body of the entity that appointed the director who vacated the office shall appoint a director to serve the remainder of the term. In making this appointment, the governing body shall appoint a director to represent the interest of the director who has vacated the office.

(h) Directors are not entitled to receive compensation for serving as a director but may be reimbursed for actual, reasonable expenses incurred in the discharge of official duties.

(i) A majority vote of a quorum is required for board action. If there is a tie vote, the proposed action fails.

SECTION 13. APPOINTMENT OF DIRECTORS. (a) The commissioners courts of the counties within the district, if the district has two to five counties, shall each appoint four directors, of whom:

(1) one must represent municipal interests;

(2) one must represent agricultural interests;

(3) one must represent industrial interests; and

(4) one must represent rural water suppliers' interests.

(b) If the district consists of one county, the commissioners court of that county shall appoint eight directors, of whom:

(1) two must represent municipal interests;

(2) two must represent agricultural interests;

(3) two must represent industrial interests; and

(4) two must represent rural water suppliers' interests.

(c) The commissioners courts of the counties within the district shall each appoint the appropriate number of initial directors as soon as practicable following the effective date of this Act, but not later than the 90th day after the effective date of this Act.

(d) The initial directors shall draw lots to determine their terms. Half of the initial directors serve terms that expire on the second anniversary of the

date on which all initial directors have qualified as required by Section 12 of this Act, and half of the initial directors serve terms that expire on the fourth anniversary of the date on which all initial directors have qualified as required by Section 12 of this Act. On the second anniversary of the date on which all initial directors have qualified as required by Section 12 of this Act and every two years after that date, the appropriate commissioners courts shall appoint the appropriate number of permanent directors.

SECTION 14. ORGANIZATIONAL MEETING. As soon as practicable after all the initial directors have been appointed and have qualified as provided in this Act, a majority of the directors shall convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. If no location can be agreed on, the organizational meeting of the directors shall be at the Washington County Courthouse.

SECTION 15. CONFIRMATION ELECTION. (a) The initial board of directors shall call and hold, on the same date in each county to be included in the district, an election to confirm the creation of the district.

(b) Except as provided by this section, a confirmation election must be conducted as provided by Sections 36.017, 36.018, and 36.019, Water Code, and Section 41.001, Election Code.

(c) If the majority of qualified voters in a county who vote in the election vote to confirm the creation of the district, that county is included in the district. If the majority of qualified voters in a county who vote in the election vote not to confirm the creation of the district, that county is excluded from the district.

(d) If the creation of the district is not confirmed by an election held under this section before the second anniversary of the effective date of this Act, the district is dissolved and this Act expires on that date.

SECTION 16. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS. (a) The proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and other laws of this state, including the governor, who has submitted the notice and Act to the Texas Natural Resource Conservation Commission.

(b) The Texas Natural Resource Conservation Commission has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(c) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 17. EFFECTIVE DATE. This Act takes effect September 1, 2001.

HB 3665 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Wohlgemuth called up with senate amendments for consideration at this time,

HB 3665, A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Cross Timbers Groundwater Conservation District.

On motion of Representative Wohlgemuth, the house concurred in the senate amendments to **HB 3665**.

Senate Committee Substitute

CSHB 3665, A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Middle Trinity Groundwater Conservation District.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. CREATION. (a) A groundwater conservation district, to be known as the Middle Trinity Groundwater Conservation District, is created in Bosque, Callahan, Coryell, Eastland, Erath, Somervell, Comanche, and Hamilton counties, subject to a confirmation election under Section 10 of this Act. The district is a governmental agency and a body politic and corporate.

(b) The district is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

SECTION 2. DEFINITION. In this Act, "district" means the Middle Trinity Groundwater Conservation District.

SECTION 3. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Bosque, Callahan, Coryell, Eastland, Erath, Somervell, Comanche, and Hamilton counties.

SECTION 4. FINDING OF BENEFIT. All of the land and other property included within the boundaries of the district will be benefitted by the works and projects that are to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution. The district is created to serve a public use and benefit.

SECTION 5. GENERAL POWERS. (a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. This Act prevails over any provision of general law that is in conflict or inconsistent with this Act.

(b) Notwithstanding Subsection (a) of this section, the following provisions prevail over a conflicting or inconsistent provision of this Act:

- (1) Sections 36.1071-36.108, Water Code;
- (2) Sections 36.159, 36.160, and 36.161, Water Code; and
- (3) Subchapter I, Chapter 36, Water Code.

(c) Chapter 49, Water Code, does not apply to the district.

SECTION 6. BOARD OF DIRECTORS. (a) The district is governed by a board of not fewer than five or more than 16 directors. Directors are appointed as provided by Section 7 of this Act.

(b) Initial directors serve until permanent directors are appointed under Section 7 of this Act.

(c) Permanent directors serve staggered four-year terms.

(d) Each director must qualify to serve as director in the manner provided by Section 36.055, Water Code.

(e) A director serves until the director's successor has qualified.

(f) Directors may serve consecutive terms.

SECTION 7. APPOINTMENT OF DIRECTORS. (a) The commissioners court of each county in the district shall appoint two directors.

(b) If the district consists of two counties, the commissioners courts of these counties shall appoint three directors.

(c) If the district consists of one county, the commissioners court of that county shall appoint five directors.

SECTION 8. INITIAL DIRECTORS. (a) The initial board of directors consists of:

(1) Calvin Rueter and Truman Blum, from Bosque County;

(2) Bryan Farmer and Cecil Barton, from Callahan County;

(3) Jack Wall and Lyle Zoeller, from Coryell County;

(4) Brad Stephenson and Ron Bailey, from Eastland County;

(5) Tab Thompson and John Moser, from Erath County;

(6) Walter Maynard and Jeff Mackey, from Somervell County;

(7) Lance Wilkerson and John Robert Adcock, from Comanche County; and

(8) Joe McGowen and Charlie Thomas, from Hamilton County.

(b) If an initial director fails to qualify for office, the commissioners court that appointed the director shall appoint a person to fill the vacancy.

SECTION 9. TERMS OF OFFICE OF INITIAL DIRECTORS. (a) One initial director from each county in the district shall serve a term expiring December 31, 2003.

(b) One initial director from each county in the district shall serve a term expiring December 31, 2005.

(c) The two initial directors from each county in the district by lot shall determine which director serves the shorter term provided by this section.

SECTION 10. CONFIRMATION ELECTION. (a) The initial board of directors shall call and hold an election to confirm the establishment of the district.

(b) Section 41.001(a), Election Code, does not apply to a confirmation election held as provided by this section.

(c) Except as provided by this section, a confirmation election must be conducted as provided by Sections 36.017(b)-(h), Water Code, and the Election Code.

(d) If the majority of qualified voters in a county who vote in the election vote to confirm the creation of the district, that county is included in the district. If the majority of qualified voters in a county who vote in the election vote not to confirm the creation of the district, that county is excluded from the district.

SECTION 11. DISTRICT REVENUES. The board of directors may impose taxes annually to pay the maintenance and operating expenses of the district at a rate not to exceed five cents on each \$100 of assessed valuation.

SECTION 12. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS. (a) The proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are

required to be furnished by the constitution and other laws of this state, including the governor, who has submitted the notice and Act to the Texas Natural Resource Conservation Commission.

(b) The Texas Natural Resource Conservation Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(c) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 13. EFFECTIVE DATE; EXPIRATION DATE. (a) This Act takes effect September 1, 2001.

(b) If the creation of the district is not confirmed at a confirmation election held under Section 10 of this Act before September 1, 2003, this Act expires on that date.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 3665** (Senate Committee Printing) by striking all below the enacting clause and substituting the following:

SECTION 1. CREATION. (a) A groundwater conservation district, to be known as the Middle Trinity Groundwater Conservation District, is created in Bosque, Callahan, Coryell, Eastland, Erath, Somervell, Comanche, and Hamilton counties, subject to a confirmation election under Section 10 of this Act. The district is a governmental agency and a body politic and corporate.

(b) The district is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

SECTION 2. DEFINITION. In this Act, "district" means the Middle Trinity Groundwater Conservation District.

SECTION 3. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Bosque, Callahan, Coryell, Eastland, Erath, Somervell, Comanche, and Hamilton counties.

SECTION 4. FINDING OF BENEFIT. All of the land and other property included within the boundaries of the district will be benefitted by the works and projects that are to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution. The district is created to serve a public use and benefit.

SECTION 5. GENERAL POWERS. (a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. This Act prevails over any provision of general law that is in conflict or inconsistent with this Act.

(b) Notwithstanding Subsection (a) of this section, the following provisions prevail over a conflicting or inconsistent provision of this Act:

- (1) Sections 36.1071 through 36.108, Water Code;
- (2) Sections 36.159, 36.160, and 36.161, Water Code; and
- (3) Subchapter I, Chapter 36, Water Code.

(c) Chapter 49, Water Code, does not apply to the district.

SECTION 6. BOARD OF DIRECTORS. (a) The district is governed by a board of not fewer than five or more than 16 directors.

(b) Temporary directors named under Section 8 of this Act serve until initial directors are elected under Section 10 of this Act.

(c) Initial directors serve until permanent directors are elected under Section 11 of this Act.

(d) Permanent directors serve staggered four-year terms.

(e) Each director must qualify to serve as director in the manner provided by Section 36.055, Water Code.

(f) A director serves until the director's successor has qualified.

SECTION 7. COMPENSATION OF DIRECTORS. A director may not receive compensation for service on the board but is entitled to reimbursement of actual expenses reasonably and necessarily incurred while engaging in activities on behalf of the district.

SECTION 8. TEMPORARY DIRECTORS. (a) The temporary board of directors consists of:

- (1) Calvin Rueter and Truman Blum, from Bosque County;
- (2) Bryan Farmer and Cecil Barton, from Callahan County;
- (3) Jack Wall and Lyle Zoeller, from Coryell County;
- (4) Brad Stephenson and Ron Bailey, from Eastland County;
- (5) Tab Thompson and John Moser, from Erath County;
- (6) Walter Maynard and Jeff Mackey, from Somervell County;
- (7) Lance Wilkerson and John Robert Adcock, from Comanche County; and
- (8) Joe McGowen and Charlie Thomas, from Hamilton County.

(b) If a temporary director fails to qualify for office, the commissioners court that appointed the director shall appoint a person to fill the vacancy.

SECTION 9. METHOD OF ELECTING DIRECTORS. (a) Two directors shall be elected from each county in the district as provided by this section.

(b) To be qualified to be a candidate for or to serve as director, a person must be a registered voter in the county the person seeks to represent.

(c) The initial or permanent directors may revise the number of directors as necessary or appropriate, subject to Section 6(a) of this Act, to exclude directors representing counties that do not confirm the establishment of the district, to include directors representing counties that are annexed to the district, or to maintain compliance with the federal Voting Rights Act of 1965 (42 U.S.C. Section 1973 et seq.), as amended. The initial or permanent directors may appoint an at-large director to maintain an odd number of directors. An at-large director must be a registered voter in the district.

(d) The initial or permanent directors may revise the number of directors to be elected from each county, subject to Section 6(a) of this Act, if necessary to provide for better representation of the residents of the district on the board of directors.

SECTION 10. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. (a) The temporary board of directors shall call and hold an election in each county in the district to confirm establishment of the district and to elect initial directors to represent the county.

(b) At the confirmation and initial directors' election, the temporary board of directors shall have placed on the ballot in each county the names of any candidates filing for an initial director's position from that county and blank spaces to write in the names of other persons.

(c) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors' election held as provided by this section.

(d) Except as provided by this section, a confirmation and initial directors' election must be conducted as provided by Sections 36.017(b)-(h), Water Code, and the Election Code.

(e) The district is established if a majority of the votes cast at the election in at least one county favors the establishment of the district. A county is included in the district and may elect directors to the board only if a majority of the votes cast at the election in that county favors the establishment of the district. Counties included in the district are not required to be contiguous.

SECTION 11. ELECTION OF PERMANENT DIRECTORS. (a) On the first Saturday in May of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election, an election shall be held in each county in the district for the election of permanent directors. The initial directors in each participating county shall draw lots to determine which permanent director from that county shall serve a two-year term and which permanent director from that county shall serve a four-year term.

(b) On the first Saturday in May of each subsequent second year following the election, the appropriate number of directors shall be elected.

SECTION 12. DISTRICT REVENUES. The board of directors may impose taxes annually to pay the maintenance and operating expenses of the district at a rate not to exceed five cents on each \$100 of assessed valuation.

SECTION 13. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS. (a) The proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and other laws of this state, including the governor, who has submitted the notice and Act to the Texas Natural Resource Conservation Commission.

(b) The Texas Natural Resource Conservation Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(c) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 14. EFFECTIVE DATE; EXPIRATION DATE. (a) This Act takes effect September 1, 2001.

(b) If the creation of the district is not confirmed at a confirmation election held under Section 10 of this Act before September 1, 2003, this Act expires on that date.

HB 3673 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Swinford called up with senate amendments for consideration at this time,

HB 3673, A bill to be entitled An Act relating to feeding certain garbage to swine; providing a criminal penalty.

On motion of Representative Swinford, the house concurred in the senate amendments to **HB 3673**.

Senate Committee Substitute

CSHB 3673, A bill to be entitled An Act relating to feeding certain garbage to swine; providing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 165.026, Agriculture Code, is amended to read as follows:

Sec. 165.026. FEEDING GARBAGE TO SWINE. (a) A person may not feed restricted garbage to swine or provide restricted garbage to any person for the purpose of feeding swine, except that a facility operated by the Texas Department of Criminal Justice may feed restricted garbage to swine if the garbage is properly treated in accordance with applicable federal requirements.

(b) A person may feed unrestricted garbage to swine only if ~~unless:~~

~~[(1)]~~ the person first registers with and secures a permit from the commission ~~[-and~~

~~[(2)] the garbage has been heated to a temperature of 212 degrees Fahrenheit for a period of 30 consecutive minutes within 48 hours prior to feeding].~~

~~[(c)]~~ ~~[(b)]~~ The commission may adopt rules for registration under this section, including rules providing for registration issuance, revocation, and renewal, disease tests, inspections, ~~[and]~~ bookkeeping, and appropriate handling and treatment of unrestricted garbage. Registration with the commission shall be made on forms prescribed by the commission, and the commission shall furnish those forms on request. The commission may impose a registration fee not to exceed \$25 a year.

~~[(d)]~~ The commission or the executive director of the commission may issue an emergency administrative order to suspend a registration under this section or require the immediate quarantine and closure of a garbage feeding facility if the commission or the executive director determines that the practice presents a danger to public health or the livestock industry, including any danger related to an insect infestation or the transmission of a disease. An order must expire not later than the end of the second month after the effective date of the order.

~~[(e)]~~ The commission or the commissioner may issue an order prohibiting the feeding of restricted garbage to swine in all or part of the state if the commission or the commissioner determines that the practice presents a danger to public health or the livestock industry, including any danger related to an insect infestation or the transmission of a disease.

~~[(f)]~~ ~~[(e)]~~ This section does not apply to an individual who feeds unrestricted garbage from the individual's own household, farm, or ranch to swine owned by the individual.

~~[(g)]~~ The commission, in cooperation with the department and any other appropriate state agencies and political subdivisions, shall:

(1) attempt to inform each supplier of restricted garbage and each individual feeding garbage to swine of the provisions of this section;

(2) assist garbage feeding facilities and individuals feeding garbage to swine in identifying a source for obtaining unrestricted garbage; and

(3) adopt measures designed to ensure compliance with this section.

(h) ~~(4)~~ In this section:

(1) [;] "Restricted garbage" includes:

(A) the animal ~~[or vegetable]~~ refuse matter and the putrescible animal ~~[or vegetable]~~ waste resulting from handling, preparing, cooking, or consuming food containing all or part of an animal carcass;

(B) [;] the animal waste material by-products or commingled animal and vegetable waste material by-products of a restaurant, kitchen, cookery, or slaughterhouse; [;] and

(C) refuse accumulations of animal matter or commingled animal and vegetable matter, liquid or otherwise.

(2) "Unrestricted garbage" includes the vegetable, fruit, dairy, or baked goods refuse matter and vegetable waste and refuse accumulations resulting from handling, preparing, cooking, or consuming food containing only vegetable matter, liquid or otherwise.

SECTION 2. A violation of Section 165.026(a) or (b), Agriculture Code, as amended by this Act, is an offense under Section 165.041, Agriculture Code, only if each element of the violation occurs on or after December 1, 2001. An offense under Section 165.041 for a violation of Section 165.026(a) or (b) committed before December 1, 2001, is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2001.

HB 3675 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Bonnen called up with senate amendments for consideration at this time,

HB 3675, A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Brazoria County Groundwater Conservation District.

On motion of Representative Bonnen, the house concurred in the senate amendments to **HB 3675**.

Senate Committee Substitute

CSHB 3675, A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Brazoria County Groundwater Conservation District.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. CREATION. (a) A groundwater conservation district, to be known as the Brazoria County Groundwater Conservation District, is created in Brazoria County, subject to approval at a confirmation election under Section 9 of this Act. The district is a governmental agency and a body politic and corporate.

(b) The district is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

SECTION 2. DEFINITION. In this Act, "district" means the Brazoria County Groundwater Conservation District.

SECTION 3. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Brazoria County, Texas.

SECTION 4. FINDING OF BENEFIT. All of the land and other property included within the boundaries of the district will be benefitted by the works and projects that are to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution. The district is created to serve a public use and benefit.

SECTION 5. GENERAL POWERS. (a) Except as provided by Section 12 of this Act, the district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. This Act prevails over any provision of general law that is in conflict or inconsistent with this Act.

(b) Notwithstanding Subsection (a), the following provisions prevail over a conflicting or inconsistent provision of this Act:

- (1) Sections 36.1071-36.108, Water Code;
- (2) Sections 36.159-36.161, Water Code; and
- (3) Subchapter I, Chapter 36, Water Code.

(c) The district may not purchase groundwater or rights to groundwater unless the purchased groundwater or rights to groundwater are acquired for conservation purposes and are permanently held in trust not to be produced.

SECTION 6. BOARD OF DIRECTORS. (a) The district is governed by a board of five directors.

(b) Temporary directors serve until initial directors are elected under Section 9 of this Act.

(c) Initial directors serve until permanent directors are elected under Section 10 of this Act.

(d) Permanent directors serve staggered four-year terms.

(e) Each director must qualify to serve as director in the manner provided by Section 36.055, Water Code.

(f) A director serves until the director's successor has qualified.

SECTION 7. TEMPORARY DIRECTORS. (a) The temporary board of directors consists of five members appointed by the Brazoria County Commissioners Court.

(b) If a temporary director fails to qualify for office or if a vacancy occurs for some other reason, the Brazoria County Commissioners Court shall appoint a person to fill the vacancy.

SECTION 8. METHOD OF ELECTING DIRECTORS: COMMISSIONERS PRECINCTS. (a) The directors of the district shall be elected according to the commissioners precinct method as provided by this section.

(b) One director shall be elected by the voters of the entire district, and one director shall be elected from each county commissioners precinct by the voters of that precinct.

(c) To be eligible to be a candidate for or to serve as director at large, a person must be a registered voter in the district. To be a candidate for or

to serve as director from a county commissioners precinct, a person must be a registered voter of that precinct.

(d) A person shall indicate on the application for a place on the ballot:

- (1) the precinct that the person seeks to represent; or
- (2) that the person seeks to represent the district at large.

(e) When the boundaries of the commissioners precincts are changed, each director in office on the effective date of the change or elected to a term of office beginning on or after the effective date of the change serves in the precinct to which the director was elected for the entire term to which the director was elected, even though the change in boundaries places the person's residence outside the precinct for which the person was elected.

SECTION 9. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. (a) The temporary board of directors shall call and hold an election to confirm establishment of the district and to elect initial directors.

(b) At the confirmation and initial directors' election, the temporary board of directors shall have placed on the ballot the name of any candidate filing for an initial director's position and blank spaces to write in the names of other persons. A temporary director who is eligible to be a candidate under Section 8 may file for an initial director's position.

(c) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors' election held as provided by this section.

(d) Except as provided by this section, a confirmation and initial directors' election must be conducted as provided by Sections 36.017(b)-(h), Water Code, and the Election Code.

SECTION 10. ELECTION OF DIRECTORS. (a) On the first Saturday in May of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election, an election shall be held in the district for the election of three directors to serve four-year terms and two directors to serve two-year terms.

(b) On the first Saturday in May of each subsequent second year following the election, the appropriate number of directors shall be elected.

SECTION 11. DISTRICT FINANCES. (a) Except as provided by Subsection (d) of this section, the board of directors may impose an operation and maintenance tax at a rate not to exceed five cents for each \$100 of taxable value of property in the district if approved by a majority of the qualified voters voting at an election called and held for that purpose in the manner provided by Section 36.201, Water Code.

(b) If an election fails to approve an operation and maintenance tax as provided by Subsection (a) of this section, the board of directors may impose reasonable fees on each nonexempt well in the district. The fees may be assessed annually, based on:

- (1) the size of column pipe used in the well;
- (2) the production capacity of the well; or
- (3) actual, authorized, or anticipated pumpage.

(c) The amount of fees that may be assessed by the district is subject to limitations provided by Section 36.205, Water Code.

(d) If the district imposes a tax under this section, the district may not impose a fee. If the district imposes a fee under this section, the district may not impose a tax.

SECTION 12. LIMITATIONS ON POWERS. The district may not for any purpose:

- (1) exercise the power of eminent domain;
- (2) acquire land; or
- (3) issue or sell bonds;

SECTION 13. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS. (a) The proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and other laws of this state, including the governor, who has submitted the notice and Act to the Texas Natural Resource Conservation Commission.

(b) The Texas Natural Resource Conservation Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(c) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 14. EFFECTIVE DATE; EXPIRATION DATE. (a) This Act takes effect September 1, 2001.

(b) If the creation of the district is not confirmed at a confirmation election held under Section 9 of this Act before September 1, 2003, this Act expires on that date.

HB 3692 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Coleman called up with senate amendments for consideration at this time,

HB 3692, A bill to be entitled An Act relating to the creation of the Greater Southeast Management District; providing authority to impose a tax and issue bonds.

On motion of Representative Coleman, the house concurred in the senate amendments to **HB 3692** by (Record 606): 112 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chisum; Christian; Clark; Coleman; Corte; Crabb; Craddick; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Edwards; Ehrhardt; Elkins; Ellis; Farabee; Flores; Gallego; Garcia; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Heflin; Hill; Hinojosa; Hodge; Homer; Hope; Hopson; Hunter; Hupp; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; Kitchen; Krusee; Kuempel; Lewis, G.; Longoria; Luna; Madden; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Oliveira; Olivo; Pickett; Pitts; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Telford;

Thompson; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; West; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Capelo; Crownover; Green; Hawley; Hilbert; Hilderbran; Isett; Janek; Jones, D.; Kolkhorst; Miller; Walker; Williams; Zbranek.

Absent, Excused, Committee Meeting — Chavez; Cook; Counts; Hochberg; King, T.; Lewis, R.; Martinez Fischer; Puente; Sadler; Tillery.

Absent — Bonnen; Dutton; Eiland; Farrar; George; Grusendorf; Howard; Marchant; Najera; Nixon; Noriega; Talton; Wise.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3692** by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 376, Local Government Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. GREATER SOUTHEAST MANAGEMENT DISTRICT

Sec. 376.451. CREATION OF DISTRICT. (a) A special district to be known as the "Greater Southeast Management District" exists as a political subdivision of the state.

(b) The name of the district may be changed by resolution of the board.

(c) The creation of the district is essential to accomplish the purposes of Section 52, Article III, Section 59, Article XVI, and Section 52-a, Article III, Texas Constitution, and other public purposes stated in this subchapter.

Sec. 376.452. DECLARATION OF INTENT. (a) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, arts, entertainment, economic development, safety, and the public welfare in the southeast area of the city of Houston.

(b) The creation of the district and this legislation are not to be interpreted to relieve the county or the municipality from providing the level of services, as of the effective date of this subchapter, to the area in the district or to release the county or the municipality from the obligations each entity has to provide services to that area. The district is created to supplement and not supplant the municipal or county services provided in the area in the district.

(c) By creating the district and in authorizing the municipality, county, and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

Sec. 376.453. DEFINITIONS. In this subchapter:

(1) "Board" means the board of directors of the district.

(2) "County" means Harris County, Texas.

(3) "District" means the Greater Southeast Management District.

(4) "Municipality" means the City of Houston, Texas.

Sec. 376.454. BOUNDARIES. The district includes all the territory contained in the following described area:

BEGINNING at a point being the point of intersection of the centerline of the right-of-way of interstate 45 and the centerline of the intersection of HB & TRR;

THENCE, in a south westerly direction along the centerline of HB & TRR to the intersection or Wheeler Street;

THENCE, continuing in a southeasterly direction along the centerline of HB & TRR, and to the intersection of the T & no RR (Greater Houston & S.A.R.R.);

THENCE, east along T & No RR to the rear lot lines of all business facing the West Property line on South Wayside Street;

THENCE, south parallel more or less to South Wayside to the South Loop East passing its South property line to the rear property line of all lots fronting on the South Loop East;

THENCE, west parallel to the South Loop East more or less along the rear lines of all property fronting on the south property line of the South Loop East passing Myakawa Road to the West line of Martin Luther King Street;

THENCE, along the rear property line of the lots fronting the West R.O.W. line of Martin Luther King Street to the north line of Browncroft Street;

THENCE west along the north line of Browncroft St. passing USA Lane to the south continuing in a generally west direction to the west line of Milart Street;

THENCE South along the west line of Milart Street to the southeast corner of tract 23 of the WCRR Co. Survey A 936;

THENCE, west along the southerly property line of Tract 23 and 14B of the WCRR Co. Survey A 936 to the east line of Schroeder Street;

THENCE northeasterly direction along the easterly line of Schoeder Road to its intersection with the southerly line on Griggs Road;

THENCE in a northeasterly direction along the southerly line of Griggs Road to the intersection of the rear of the rear property line of the lot facing Grace Lane;

THENCE in a southwesterly direction along the rear property line of the lots facing Grace lane to the intersection of the rear property line projection of all lots fronting, more or less the north line of Kingsbury Lane;

THENCE westerly along the rear property line projection of all lots fronting the north line of Kingsbury Lane to the east right-of-way line of Calhoun Road;

THENCE northeasterly along the easterly line of Calhoun Road to the rear property line projection of the lots fronting on Griggs Road;

THENCE, west along the rear property line of all the lots fronting on Griggs Road to the east line of Cullen Road;

THENCE, in a southerly direction along the east line of Cullen Road to the south line projection of Dixie Street;

THENCE, in a westerly direction along the south line of Dixie Street, crossing St. Augustine Street, to the rear line of the lot facing St. Augustine Street;

THENCE north to the rear lot line of the lots that front on Old Spanish Trail;

THENCE west along the rear lot line of the lots that front on Old Spanish Trail to the rear property line of the lot that fronts on Scottcrest Street;

THENCE north to the south right-of-way line of Old Spanish Trail;

THENCE west to the intersection of the east line of Scott Crest Street;

THENCE in a southwesterly direction to the rear property line of all lots that front Zephyr Street;

THENCE in a westerly direction along the rear property line of the lots that front Zephyr Street to west right-of-way line of LaSalette Drive;

THENCE northwesterly along the west right-of-way line of LaSalette Drive to the intersection of the south right-of-way line of Old Spanish Trail;

THENCE southwesterly along the south right-of-way line of Old Spanish Trail to rear property line of the corner lot fronting on Tierwester Street;

THENCE south along the rear property line of the corner lot fronting on Tierwester Street to the southeast corner of this lot;

THENCE west along the south line of the corner lot fronting on Tierwester Street to the east right-of-way line of Tierwester Street;

THENCE southerly along the east right-of-way line of Tierwester Street to the south property line of Zephyr Street;

THENCE west crossing Tierwester Street, where the street names changes from Zephyr Street to Southland Avenue and along the south line of Southland Avenue to the intersection of the south right-of-way line of Old Spanish Trail;

THENCE in a southwesterly direction along the south line of Old Spanish Trail to the east line of Allegheny Street;

THENCE south along the east right-of-way line of Allegheny Street the southeast corner of the first corner lot;

THENCE east along the south line of the corner lot to the rear property line;

THENCE south along the rear property line for one lot long to the southeast corner of this lot fronting on the east line of Allegheny Street;

THENCE west to the east property line of Allegheny Street;

THENCE in a southwesterly direction along the east right-of-way line of Allegheny Street to the intersection of the north right-of-way line of Yellowstone Street;

THENCE in a south easterly direction along the north right-of-way line of Yellowstone Street to the east right-of-way line of Peerless Street;

THENCE in a southerly direction along the east right-of-way line of Peerless Street to the intersection of the south right-of-way line of Corder Street;

THENCE, in a northwesterly direction along the southerly line of Corder Street crossing State Highway 288 in a straight line along the centerline of Nicholas Street to its intersection with the westerly line of Alameda Rd.;

THENCE, in a southerly direction along the westerly line of Alameda Rd. to its intersection with the southerly line of El Paseo St;

THENCE, in a westerly direction along the southerly line of El Paseo to its intersection with the westerly line of Knight Rd;

THENCE, in a northerly direction along the centerline of Knight Rd. to its intersection with Fannin St;

THENCE, along the centerline of Fannin Street in a northwesterly direction to the intersection of Holcombe Street;

THENCE, west along the centerline of Holcombe Street to the intersection of South Main Street;

THENCE, in a northeasterly direction along the centerline of South Main to Palm Street, and to the intersection with the boundaries of the Midtown TIRZ and Management District;

THENCE, southeasterly with the Southerly R.O.W. of Palm Street to the easterly R.O.W. line of Fannin Street;

THENCE, northeasterly, with the Easterly R.O.W. line of Fannin Street to the northerly R.O.W. line of US 59 South;

THENCE, in an easterly, direction with curve to the left and in a northerly direction along the northerly R.O.W. line of US 59 South, to the intersection of the westerly R.O.W. line of State Highway 288 which is also being US 59 North and crossing Interstate Highway 45 (Gulf Freeway) to the Northerly R.O.W. line thereof; said point also being the Northwest boundary corner of the Midtown TIRZ & Management District;

THENCE, southeasterly direction along the north right-of-way line of Interstate Highway 45 and to the POINT OF BEGINNING, containing 19,400 acres more or less, SAVE AND EXCEPT all tracts or parcels of land, rights-of-way, facilities, and improvements owned by an electric utility or a power generation company as defined by Section 31.002, Utilities Code, or a gas utility as defined by Sections 101.003 and 121.001, Utilities Code.

Sec. 376.455. FINDINGS RELATING TO BOUNDARIES. The boundaries and field notes of the district form a closure. If a mistake is made in the field notes or in copying the field notes in the legislative process, the mistake does not in any way affect the:

(1) organization, existence, and validity of the district;

(2) right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created or to pay the principal of and interest on the bonds;

(3) right of the district to impose and collect assessments or taxes; or

(4) legality or operation of the district or its governing body.

Sec. 376.456. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) All the land and other property included in the district will be benefitted by the improvements and services to be provided by the district under powers conferred by Section 52, Article III, Section 59, Article XVI, and Section 52-a, Article III, Texas Constitution, and other powers granted under this subchapter, and the district is created to serve a public use and benefit.

(b) The creation of the district is in the public interest and is essential to:

(1) further the public purposes of the development and diversification of the economy of the state; and

(2) eliminate unemployment and underemployment and develop or expand transportation and commerce.

(c) The district will:

(1) promote the health, safety, and general welfare of residents, employers, employees, visitors, consumers in the district, and the general public;

(2) provide money to preserve, maintain, and enhance the economic health and vitality of the district as a community and business center; and

(3) further promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic and aesthetic beauty.

(d) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, and street art

objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(e) The district will not act as the agent or instrumentality of any private interest even though many private interests will be benefitted by the district, as will the general public.

Sec. 376.457. APPLICATION OF OTHER LAW. Except as otherwise provided by this subchapter, Chapter 375 applies to the district and its governing body and employees.

Sec. 376.458. CONSTRUCTION OF SUBCHAPTER. This subchapter shall be liberally construed in conformity with the findings and purposes stated in this subchapter.

Sec. 376.459. BOARD OF DIRECTORS IN GENERAL. (a) The district is governed by a board of 21 directors who serve staggered terms of four years, with 10 members' terms expiring June 1 of an odd-numbered year and 11 members' terms expiring June 1 of the following odd-numbered year. The board may increase or decrease the number of directors on the board by resolution, provided that it is in the best interest of the district to do so and that the board consists of not fewer than 9 and not more than 30 directors.

(b) Subchapter D, Chapter 375, applies to the board to the extent that subchapter does not conflict with this subchapter. The imposition of a tax, assessment, or impact fee requires a vote of a majority of the directors serving. Directors may vote on any matter authorized by Subchapter D, Chapter 375, and action may be taken by the board only if it is approved in the manner prescribed by Subchapter D, Chapter 375.

Sec. 376.460. APPOINTMENT OF DIRECTORS; VACANCY. The mayor and members of the governing body of the municipality shall appoint directors from persons recommended by the board who meet the qualifications of Subchapter D, Chapter 375. A vacancy in the office of director because of the death, resignation, or removal of a director shall be filled by the remaining members of the board by appointing a qualified person for the unexpired term.

Sec. 376.461. POWERS OF DISTRICT. The district has:

(1) all powers necessary or required to accomplish the purposes for which the district was created;

(2) the rights, powers, privileges, authority, and functions of a district created under Chapter 375;

(3) the powers given to a corporation under Section 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), and the power to own, operate, acquire, construct, lease, improve, and maintain projects;

(4) the power to impose ad valorem taxes, assessments, or impact fees in accordance with Chapter 375 to provide improvements and services for a project or activity the district is authorized to acquire, construct, improve, or provide under this subchapter;

(5) the power to correct, add to, or delete assessments from its assessment rolls after notice and hearing as provided by Subchapter F, Chapter 375; and

(6) the powers given to a housing finance corporation created under Chapter 394 to provide housing or residential development projects in the district.

Sec. 376.462. EMINENT DOMAIN. The district may not exercise the power of eminent domain.

Sec. 376.463. EX OFFICIO BOARD MEMBERS. (a) The following persons shall serve as nonvoting ex officio directors:

(1) the director of the following departments of the municipality:

(A) parks and recreation;

(B) planning and development;

(C) public works; and

(D) civic center;

(2) the municipality's chief of police;

(3) the general manager of the Metropolitan Transit Authority; and

(4) the presidents of any institutions of higher learning located in the district.

(b) If a department described by Subsection (a) is consolidated, renamed, or changed, the board may appoint a director of the consolidated, renamed, or changed department as a nonvoting ex officio board member. If a department described by Subsection (a) is abolished, the board may appoint a representative of another department of the municipality that performs duties comparable to those performed by the abolished department.

(c) The board may appoint the presiding officer of a nonprofit corporation that is actively involved in activities in the municipality's midtown area to serve as a nonvoting ex officio director.

Sec. 376.464. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT. (a) Except as provided in this section:

(1) a director may participate in all board votes and decisions; and

(2) Chapter 171 governs conflicts of interest for board members.

(b) Section 171.004 does not apply to the district. A director who has a substantial interest in a business or charitable entity that will receive a pecuniary benefit from a board action shall file a one-time affidavit declaring the interest. An additional affidavit is not required if the director's interest changes. After the affidavit is filed with the board secretary, the director may participate in a discussion or vote on that action if:

(1) a majority of the directors have a similar interest in the same entity; or

(2) all other similar business or charitable entities in the district will receive a similar pecuniary benefit.

(c) A director who is also an officer or employee of a public entity may not participate in the discussion of or vote on a matter regarding a contract with that same public entity.

(d) For purposes of this section, a director has a substantial interest in a charitable entity in the same manner that a person would have a substantial interest in a business entity under Section 171.002.

Sec. 376.465. EXPENSES AND LIABILITY FOR CERTAIN ACTIONS AFFECTING PROPERTY. (a) If the district, in exercising a power conferred by this subchapter, requires a relocation, adjustment, raising, lowering, rerouting, or changing of the grade or the construction of any of the following items, the district must take that required action at the sole expense of the district:

(1) a street, alley, highway, overpass, underpass, road, railroad track, bridge, facility, or other property;

(2) an electric line, conduit, facility, or other property;

(3) a telephone or telegraph line, conduit, facility, or other property;

(4) a gas transmission or distribution pipe, pipeline, main, facility, or other property;

(5) a water, sanitary sewer, or storm sewer pipe, pipeline, main, facility, or other property;

(6) a cable television line, cable, conduit, facility, or other property;
or

(7) another pipeline, facility, or other property relating to the pipeline.

(b) The district shall bear damages that are suffered by owners of the facility or other property.

Sec. 376.466. RELATION TO OTHER LAW. If any provision of general law, including a law referenced in this subchapter, is in conflict with or is inconsistent with this subchapter, this subchapter prevails. Any law referenced in this subchapter that is not in conflict or inconsistent with this subchapter is adopted and incorporated by reference.

Sec. 376.467. REQUIREMENTS FOR FINANCING SERVICES AND IMPROVEMENTS. The board may not finance services and improvement projects under this subchapter unless a written petition requesting those improvements or services has been filed with the board. The petition must be signed by:

(1) the owners of a majority of the assessed value of real property in the district as determined by the most recent certified county property tax rolls; or

(2) at least 50 persons who own land in the district, if there are more than 50 persons who own property in the district as determined by the most recent certified county property tax rolls.

Sec. 376.468. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act on behalf of the district in implementing a project or providing a service authorized by this subchapter.

(b) The board shall appoint the board of directors of a nonprofit corporation created under this section. The board of directors of the nonprofit corporation shall serve in the same manner as, for the same term as, and on the conditions of the board of directors of a local government corporation created under Chapter 431, Transportation Code.

(c) A nonprofit corporation created under this section has the powers of and is considered for purposes of this subchapter to be a local government corporation created under Chapter 431, Transportation Code.

(d) A nonprofit corporation created under this section may implement any project and provide any services authorized by this subchapter.

Sec. 376.469. DISBURSEMENTS OR TRANSFERS OF FUNDS. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 376.470. BONDS. (a) The district may issue bonds or other obligations payable in whole or in part from ad valorem taxes, assessments,

impact fees, revenues, grants, or other money of the district, or any combination of those sources of money, to pay for any authorized purpose of the district.

(b) Bonds or other obligations of the district may be issued in the form of bonds, notes, certificates of participation, including other instruments evidencing a proportionate interest in payments to be made by the district, or other obligations that are issued in the exercise of the district's borrowing power and may be issued in bearer or registered form or not represented by an instrument but the transfer of which is registered on books maintained by or on behalf of the district. The board may impose and collect an assessment under Subchapter F, Chapter 375, for any purpose authorized by this subchapter or by Chapter 375.

(c) Except as provided by Subsection (d), the district must obtain the municipality's approval of:

(1) the issuance of bonds for an improvement project;

(2) the plans and specifications of the improvement project to be financed by the bonds; and

(3) the plans and specifications of a district improvement project related to:

(A) the use of land owned by the municipality;

(B) an easement granted by the municipality; or

(C) a right-of-way of a street, road, or highway.

(d) If the district obtains the municipality's approval of a capital improvements budget for a specified period not to exceed five years, the district may finance the capital improvements and issue bonds specified in the budget without further municipal approval.

(e) Before the district issues bonds, the district shall submit the bonds and the record of proceedings of the district relating to authorization of the bonds to the attorney general for approval as provided by Chapter 1202, Government Code.

Sec. 376.471. ASSESSMENTS. (a) The board may impose and collect an assessment for any purpose authorized by this subchapter.

(b) Assessments, reassessments, or assessments resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, expenses of collection, and reasonable attorney's fees incurred by the district:

(1) are a first and prior lien against the property assessed;

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) are the personal liability of and charge against the owners of the property even if the owners are not named in the assessment proceedings.

(c) The lien is effective from the date of the resolution of the board levying the assessment until the assessment is paid. The board may enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

Sec. 376.472. PROPERTY EXEMPTED FROM TAX, FEE, OR ASSESSMENT. (a) The district may not impose a tax, impact fee, or assessment on a residential property or condominium.

(b) The district may not impose an impact fee or assessment on the property, equipment, or facilities of a utility. In this subsection, "utility"

means a person that provides to the public cable television, gas, light, power, telephone, sewerage, or water service.

Sec. 376.473. ELECTIONS. (a) In addition to the elections the district must hold under Subchapter L, Chapter 375, the district shall hold an election in the manner provided by that subchapter to obtain voter approval before the district imposes a maintenance tax or issues bonds payable from ad valorem taxes or assessments.

(b) The board may submit multiple purposes in a single proposition at an election.

Sec. 376.474. IMPACT FEES. The district may impose an impact fee for an authorized purpose as provided by Subchapter G, Chapter 375.

Sec. 376.475. MAINTENANCE TAX. (a) If authorized at an election held in accordance with Section 376.473, the district may impose and collect an annual ad valorem tax on taxable property in the district for the maintenance and operation of the district and the improvements constructed or acquired by the district or for the provision of services.

(b) The board shall determine the tax rate.

Sec. 376.476. DISSOLUTION OF DISTRICT. The district may be dissolved as provided by Subchapter M, Chapter 375. If the district has debt and is dissolved, the district shall remain in existence solely for the limited purpose of discharging its bonds or other obligations according to their terms.

Sec. 376.477. CONTRACTS. (a) To protect the public interest, the district may contract with the municipality or the county for the municipality or county to provide law enforcement services in the district for a fee.

(b) The municipality, the county, or another political subdivision of the state, without further authorization, may contract with the district to implement a project of the district or assist the district in providing the services authorized under this subchapter. A contract under this subsection may:

(1) be for a period on which the parties agree;

(2) include terms on which the parties agree;

(3) be payable from taxes or any other sources of revenue that may be available for that purpose; or

(4) provide that taxes or other revenue collected at a district project or from a person using or purchasing a commodity or service at a district project may be paid or rebated to the district under the terms of the contract.

(c) The district may enter into a contract, lease, or other agreement with or make or accept grants and loans to or from:

(1) the United States;

(2) the state or a state agency;

(3) a county, a municipality, or another political subdivision of the state;

(4) a public or private corporation, including a nonprofit corporation created by the board under this subchapter; or

(5) any other person.

(d) The district may perform all acts necessary for the full exercise of the powers vested in the district on terms and for the period the board determines advisable.

Sec. 376.478. COMPETITIVE BIDDING UNIT. Section 375.221 does not apply to the district unless the contract is for more than \$25,000.

Sec. 376.479. ANNEXATION. The district may:

(1) annex territory as provided by Subchapter C, Chapter 375; and
(2) annex territory located inside the boundaries of a reinvestment zone created by the municipality under Chapter 311, Tax Code, if the governing body of the municipality consents to the annexation.

Sec. 376.480. AGREEMENTS: GENERAL; DONATIONS, INTERLOCAL AGREEMENTS, AND LAW ENFORCEMENT SERVICES. (a) The district may make an agreement with or accept a donation, grant, or loan from any person.

(b) The implementation of a project is a governmental function or service for the purposes of Chapter 791, Government Code.

(c) To protect the public interest, the district may contract with the municipality or the county for the municipality or county to provide law enforcement services in the district for a fee.

SECTION 2. The legislature finds that:

(1) proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor, who has submitted the notice and Act to the Texas Natural Resource Conservation Commission;

(2) the Texas Natural Resource Conservation Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time;

(3) the general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with; and

(4) all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 3. Notwithstanding Section 376.459, Local Government Code, as added by this Act:

(1) the initial board of directors of the Greater Southeast Management District consists of:

<u>Pos. No.</u>	<u>Name of Director</u>
1	Walter Strickland
2	Francis Page
3	Algenita Scott Davis
4	Ashley Smith
5	Zinetta A. Burney
6	Mark Moreno
7	Alan Bergeron
8	Barron Wallace
9	John Medina
10	Teddy McDavid
11	Robert Muhammad
12	Brian Smith
13	David Dang

14	Adele Maxie
15	Robert Dixon
16	Susan Young
17	James J. Smith
18	Richard Wainerdi
19	Ali Ashan
20	Walter Johnson
21	Jim Arnold; and

(2) of the initial board, members in positions 1-11 serve terms that expire June 1, 2005, and members in positions 12-21 serve terms that expire June 1, 2003.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

SB 311 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Gallego, the house granted the request of the senate for the appointment of a conference committee on **SB 311**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 311**: Gallego, chair, Bosse, Heflin, Wolens, and McCall.

HB 3452 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Gallego called up with senate amendments for consideration at this time,

HB 3452, A bill to be entitled An Act relating to the continuation and functions of the Texas Department of Economic Development and the operation, funding, and administration of economic development programs.

Representative Gallego moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3452**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3452**: Gallego, chair, Bosse, Solis, Keffer, and Luna.

HB 3696 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hinojosa called up with senate amendments for consideration at this time,

HB 3696, A bill to be entitled An Act relating to the creation of the County Court at Law No. 5 of Hidalgo County and the County Criminal Court

at Law of Hidalgo County, to redesignating the County Court at Law No. 3 of Hidalgo County as the Probate Court of Hidalgo County, and to the jurisdiction of the statutory county courts in Hidalgo County.

On motion of Representative Hinojosa, the house concurred in the senate amendments to **HB 3696**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3696** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 25.1101, Government Code, is amended to read as follows:

Sec. 25.1101. HIDALGO COUNTY. (a) Hidalgo County has the following statutory county courts:

- (1) County Court at Law No. 1 of Hidalgo County;
- (2) County Court at Law No. 2 of Hidalgo County;
- (3) ~~[County Court at Law No. 3 of Hidalgo County; and~~
- ~~[(4)]~~ County Court at Law No. 4 of Hidalgo County; and
- (4) County Court at Law No. 5 of Hidalgo County.

(b) Hidalgo County has one statutory probate court, the Probate Court of Hidalgo County.

(c) The county courts at law of Hidalgo County sit in the county seat.

SECTION 2. Section 25.1102(a), Government Code, is amended to read as follows:

(a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Hidalgo County has concurrent jurisdiction with the district court in:

- (1) family law cases and proceedings; and
- (2) civil cases in which the matter in controversy does not exceed \$750,000 ~~[\$500,000]~~, excluding interest, statutory or punitive damages and penalties, and attorney's fees and costs, as alleged on the page of the petition.

SECTION 3. Subchapter C, Chapter 25, Government Code, is amended by adding Section 25.1103 to read as follows:

Sec. 25.1103. HIDALGO COUNTY PROBATE COURT PROVISIONS.
The judge of a statutory probate court must be:

- (1) a qualified voter;
- (2) a resident of the county; and
- (3) a licensed attorney in this state who has actively practiced law for at least five years before the date of election or appointment.

SECTION 4. (a) The County Court at Law No. 3 of Hidalgo County is redesignated as the Probate Court of Hidalgo County.

(b) The judge of the County Court at Law No. 3 of Hidalgo County is the judge of the Probate Court of Hidalgo County. Unless otherwise removed, the judge serves until December 31, 2002, and until the judge's successor is elected and has qualified. In the 2002 general election and every four years thereafter, the qualified voters of the county shall elect a judge of the Probate Court of Hidalgo County for a regular term of four years.

SECTION 5. (a) The judge of the County Court at Law No. 3 of Hidalgo County shall transfer all cases over which the court loses jurisdiction

under this Act and that are pending in the court on September 1, 2001, to a district court, county court at law, or county court in the county with jurisdiction over the case.

(b) The local administrative statutory county court judge shall transfer any probate matter that is pending in a statutory county court in Hidalgo County on September 1, 2001, to the Probate Court of Hidalgo County.

(c) When a case is transferred as provided by Subsection (a) or (b) of this section, all processes, writs, bonds, recognizances, or other obligations issued from the transferring court are returnable to the court to which the case is transferred as if originally issued by that court. The obligees on all bonds and recognizances taken in and for a court from which a case is transferred, and all witnesses summoned to appear in a court from which a case is transferred, are required to appear before the court to which a case is transferred as if originally required to appear before that court.

SECTION 6. (a) Notwithstanding Section 25.1101(a), Government Code, as amended by this Act, the County Court at Law No. 5 of Hidalgo County is created January 1, 2003.

(b) Notwithstanding Section 25.0009, Government Code, the initial vacancy in the office of judge of the County Court at Law No. 5 of Hidalgo County shall be filled by election. The office exists for purposes of the primary and general elections in 2002. A vacancy after the initial vacancy is filled as provided by Section 25.0009, Government Code.

SECTION 7. The change in law made to Section 25.1102(a), Government Code, by this Act applies only to an action filed in a statutory county court of Hidalgo County on or after the effective date of this Act. An action filed in a statutory county court of Hidalgo County before the effective date of this Act is governed by the law in effect on the date the action was filed, and the former law is continued in effect for that purpose.

SECTION 8. This Act takes effect September 1, 2001.

HB 3699 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Ritter called up with senate amendments for consideration at this time,

HB 3699, A bill to be entitled An Act relating to the allocation of certain funds for institutions within the Texas State University System.

On motion of Representative Ritter, the house concurred in the senate amendments to **HB 3699** by (Record 607): 110 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Callegari; Carter; Chisum; Christian; Clark; Coleman; Corte; Crabb; Craddick; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hill; Hinojosa; Hodge; Hope; Hopson; Hunter; Hupp; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; Kitchen; Krusee; Kuempel; Lewis, G.; Longoria; Luna; Madden;

Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Najera; Noriega; Oliveira; Olivo; Pickett; Pitts; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uher; Uresti; West; Wohlgemuth; Wolens; Woolley; Yarbrough.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Capelo; Crownover; Green; Hawley; Hilbert; Hilderbran; Isett; Janek; Jones, D.; Kolkhorst; Miller; Walker; Williams; Zbraneck.

Absent, Excused, Committee Meeting — Chavez; Cook; Counts; Hochberg; King, T.; Lewis, R.; Martinez Fischer; Puente; Sadler; Tillery.

Absent — Bailey; Burnam; Dunnam; Eiland; Heflin; Homer; Howard; Marchant; Naishtat; Nixon; Ramsay; Talton; Villarreal; Wilson; Wise.

STATEMENT OF VOTE

When Record No. 607 was taken, I was attending a conference committee meeting. I would have voted yes.

Chavez

Senate Committee Substitute

CSHB 3699, A bill to be entitled An Act relating to the allocation of certain funds for institutions within the Texas State University System.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 62.021(a), Education Code, as amended by Section 2, Chapter 1363, Section 1.03, Chapter 1467, and Section 1, Chapter 1508, Acts of the 76th Legislature, Regular Session, 1999, is reenacted and amended to read as follows:

(a) Each fiscal year, an eligible institution is entitled to receive an amount allocated in accordance with this section from funds appropriated by Section 17(a), Article VII, Texas Constitution. The comptroller shall distribute funds allocated under this subsection only on presentation of a claim and issuance of a warrant in accordance with Section 403.071, Government Code. The comptroller may not issue a warrant from any funds allocated under this subsection before the delivery of goods or services described in Section 17, Article VII, Texas Constitution, except for the payment of principal or interest on bonds or notes or for a payment for a book or other published library material as authorized by Section 2155.386, Government Code. The allocation of funds under this subsection is made in accordance with an equitable formula consisting of the following elements: space deficit, facilities condition, institutional complexity, separate allocations for medical units and the Texas State Technical College System, and an additional allocation for Texas Southern University for compliance with the Texas Desegregation Plan. The amounts allocated by the formula are as follows:

\$ 5,256,817 Texas A&M University—Commerce, including an allocation of \$1,027,070 to Texas A&M University—Texarkana;

\$ 8,818,023 Lamar University, including an allocation of \$491,946 to Lamar Institute of Technology, an allocation of \$743,967 to Lamar University at Orange and an allocation of \$2,336,605 to Lamar University at Port Arthur;

\$ 3,007,669 Midwestern State University;

\$18,021,033 University of North Texas;

\$ 7,131,692 The University of Texas—Pan American, including an allocation of \$1,050,580 to The University of Texas at Brownsville;

\$ 6,633,109 Stephen F. Austin State University;

\$ 3,640,000 University of North Texas Health Science Center at Fort Worth;

\$26,132,524 Texas State University System Administration and the following component institutions, including an allocation of \$3,887,211 to Angelo State University; an allocation of \$5,864,608 to Sam Houston State University; an allocation of \$14,479,112 to Southwest Texas State University; an allocation of \$1,635,271 to Sul Ross State University; and an allocation of \$266,322 to Sul Ross State University-Rio Grande College;

\$ 7,191,493 Texas Southern University (includes allocation of \$1,000,000 for compliance with Texas Desegregation Plan);

\$20,961,881 Texas Tech University;

\$ 7,735,000 Texas Tech University Health Sciences Center;

\$ 6,974,897 Texas Woman's University;

\$36,952,989 University of Houston System Administration and the following component institutions, including an allocation of \$25,986,116 to the University of Houston; an allocation of \$1,659,449 to the University of Houston—Victoria; an allocation of \$3,853,447 to the University of Houston—Clear Lake; and an allocation of \$5,453,977 to the University of Houston—Downtown;

\$12,692,873 The following components of The Texas A&M University System, including an allocation of \$3,687,722 to Texas A&M University—Corpus Christi; an allocation of \$1,778,155 to Texas A&M International University; an allocation of \$3,555,651 to Texas A&M University—Kingsville; and an allocation of \$3,671,345 to West Texas A&M University; and

\$ 3,850,000 Texas State Technical College System Administration and the following component campuses, but not its extension centers or programs: Texas State Technical College-Amarillo; Texas State Technical College-Harlingen; Texas State Technical College-Sweetwater; Texas State Technical College—Waco.

SECTION 2. Section 62.021(b), Education Code, is amended to read as follows:

(b) Each governing board participating in the distribution of funds as described in this section may expend the funds without limitation either at the specified institution or subject to board authorized transfer at other eligible member institutions including a related system administration, and as the governing board may decide in its sole discretion, for any and all purposes described in Article VII, Section 17, of the Constitution of Texas; provided, however, that for new construction, major repair and rehabilitation projects, and land acquisition projects, those funds may not be expended without the prior approval of the legislature or the approval, review, or endorsement, as applicable, of the coordinating board; and provided further that review and

approval of major repair and rehabilitation shall apply only to projects in excess of \$600,000.

SECTION 3. Section 96.703, Education Code, is amended to read as follows:

Sec. 96.703. LAMAR INSTITUTE OF TECHNOLOGY. (a) The board shall establish and maintain an educational center of Lamar University as a separate degree-granting institution to be known as Lamar Institute of Technology.

(b) The primary purpose of the institute is to teach technical and vocational courses and related supporting courses. The board may confer degrees appropriate to the institute's curriculum.

(c) For Lamar Institute of Technology, the board may expend funds allocated to Lamar University under Chapter 62 for any of the purposes listed in Section 17, Article VII, Texas Constitution, in the same manner and under the same circumstances as expenditures for those purposes for other separate degree-granting institutions.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 3699** (Senate Committee Printing) by deleting SECTION 2 and renumbering the subsequent SECTIONS accordingly.

(Chavez now present)

HJR 5 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Solomons called up with senate amendments for consideration at this time,

HJR 5, A joint resolution proposing a constitutional amendment prescribing requirements for imposing a lien for work and material used in the construction, repair, or renovation of improvements on residential homestead property and including the conversion and refinance of a personal property lien secured by a manufactured home to a lien on real property as a debt on homestead property subject to a forced sale.

On motion of Representative Solomons, the house concurred in the senate amendments to **HJR 5** by (Record 608): 112 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Christian; Clark; Coleman; Corte; Crabb; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hill; Hinojosa; Hodge; Homer; Hope; Hopson; Hunter; Hupp; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; Kitchen; Krusee;

Kuempel; Lewis, G.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, P.; Morrison; Mowery; Noriega; Oliveira; Olivo; Pickett; Pitts; Ramsay; Rangel; Raymond; Reyna, A.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uher; Uresti; West; Wohlgemuth; Wolens; Woolley; Yarbrough.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Capelo; Crownover; Green; Hawley; Hilbert; Hilderbran; Isett; Janek; Jones, D.; Kolkhorst; Miller; Walker; Williams; Zbranek.

Absent, Excused, Committee Meeting — Cook; Counts; Hochberg; King, T.; Lewis, R.; Martinez Fischer; Puente; Sadler; Tillery.

Absent — Bailey; Craddick; Dunnam; Heflin; Howard; Moreno, J.; Naishtat; Najera; Nixon; Reyna, E.; Talton; Villarreal; Wilson; Wise.

Senate Committee Substitute

CSHJR 5, A joint resolution proposing a constitutional amendment prescribing requirements for imposing a lien for work and material used in the construction, repair, or renovation of improvements on residential homestead property and including the conversion and refinance of a personal property lien secured by a manufactured home to a lien on real property as a debt on homestead property protected from a forced sale.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 50(a), Article XVI, Texas Constitution, is amended to read as follows:

(a) The homestead of a family, or of a single adult person, shall be, and is hereby protected from forced sale, for the payment of all debts except for:

(1) the purchase money thereof, or a part of such purchase money;

(2) the taxes due thereon;

(3) an owelty of partition imposed against the entirety of the property by a court order or by a written agreement of the parties to the partition, including a debt of one spouse in favor of the other spouse resulting from a division or an award of a family homestead in a divorce proceeding;

(4) the refinance of a lien against a homestead, including a federal tax lien resulting from the tax debt of both spouses, if the homestead is a family homestead, or from the tax debt of the owner;

(5) work and material used in constructing new improvements thereon, if contracted for in writing, or work and material used to repair or renovate existing improvements thereon if:

(A) the work and material are contracted for in writing, with the consent of both spouses, in the case of a family homestead, given in the same manner as is required in making a sale and conveyance of the homestead;

(B) the contract for the work and material is not executed by the owner or the owner's spouse before the fifth [~~12th~~] day after the owner makes written application for any extension of credit for the work and material, unless the work and material are necessary to complete immediate

repairs to conditions on the homestead property that materially affect the health or safety of the owner or person residing in the homestead and the owner of the homestead acknowledges such in writing;

(C) the contract for the work and material expressly provides that the owner may rescind the contract without penalty or charge within three days after the execution of the contract by all parties, unless the work and material are necessary to complete immediate repairs to conditions on the homestead property that materially affect the health or safety of the owner or person residing in the homestead and the owner of the homestead acknowledges such in writing; and

(D) the contract for the work and material is executed by the owner and the owner's spouse only at the office of a third-party lender making an extension of credit for the work and material, an attorney at law, or a title company;

(6) an extension of credit that:

(A) is secured by a voluntary lien on the homestead created under a written agreement with the consent of each owner and each owner's spouse;

(B) is of a principal amount that when added to the aggregate total of the outstanding principal balances of all other indebtedness secured by valid encumbrances of record against the homestead does not exceed 80 percent of the fair market value of the homestead on the date the extension of credit is made;

(C) is without recourse for personal liability against each owner and the spouse of each owner, unless the owner or spouse obtained the extension of credit by actual fraud;

(D) is secured by a lien that may be foreclosed upon only by a court order;

(E) does not require the owner or the owner's spouse to pay, in addition to any interest, fees to any person that are necessary to originate, evaluate, maintain, record, insure, or service the extension of credit that exceed, in the aggregate, three percent of the original principal amount of the extension of credit;

(F) is not a form of open-end account that may be debited from time to time or under which credit may be extended from time to time;

(G) is payable in advance without penalty or other charge;

(H) is not secured by any additional real or personal property other than the homestead;

(I) is not secured by homestead property designated for agricultural use as provided by statutes governing property tax, unless such homestead property is used primarily for the production of milk;

(J) may not be accelerated because of a decrease in the market value of the homestead or because of the owner's default under other indebtedness not secured by a prior valid encumbrance against the homestead;

(K) is the only debt secured by the homestead at the time the extension of credit is made unless the other debt was made for a purpose described by Subsections (a)(1)-(a)(5) of this section;

(L) is scheduled to be repaid in substantially equal successive monthly installments beginning no later than two months from the

date the extension of credit is made, each of which equals or exceeds the amount of accrued interest as of the date of the scheduled installment;

(M) is closed not before:

(i) the 12th day after the later of the date that the owner of the homestead submits an application to the lender for the extension of credit or the date that the lender provides the owner a copy of the notice prescribed by Subsection (g) of this section; and

(ii) the first anniversary of the closing date of any other extension of credit described by Subsection (a)(6) of this section secured by the same homestead property;

(N) is closed only at the office of the lender, an attorney at law, or a title company;

(O) permits a lender to contract for and receive any fixed or variable rate of interest authorized under statute;

(P) is made by one of the following that has not been found by a federal regulatory agency to have engaged in the practice of refusing to make loans because the applicants for the loans reside or the property proposed to secure the loans is located in a certain area:

(i) a bank, savings and loan association, savings bank, or credit union doing business under the laws of this state or the United States;

(ii) a federally chartered lending instrumentality or a person approved as a mortgagee by the United States government to make federally insured loans;

(iii) a person licensed to make regulated loans, as provided by statute of this state;

(iv) a person who sold the homestead property to the current owner and who provided all or part of the financing for the purchase; or

(v) a person who is related to the homestead property owner within the second degree of affinity or consanguinity; and

(Q) is made on the condition that:

(i) the owner of the homestead is not required to apply the proceeds of the extension of credit to repay another debt except debt secured by the homestead or debt to another lender;

(ii) the owner of the homestead not assign wages as security for the extension of credit;

(iii) the owner of the homestead not sign any instrument in which blanks are left to be filled in;

(iv) the owner of the homestead not sign a confession of judgment or power of attorney to the lender or to a third person to confess judgment or to appear for the owner in a judicial proceeding;

(v) the lender, at the time the extension of credit is made, provide the owner of the homestead a copy of all documents signed by the owner related to the extension of credit;

(vi) the security instruments securing the extension of credit contain a disclosure that the extension of credit is the type of credit defined by Section 50(a)(6), Article XVI, Texas Constitution;

(vii) within a reasonable time after termination and full payment of the extension of credit, the lender cancel and return the promissory note to the owner of the homestead and give the owner, in recordable form, a release of the lien securing the extension of credit or a copy of an endorsement and assignment of the lien to a lender that is refinancing the extension of credit;

(viii) the owner of the homestead and any spouse of the owner may, within three days after the extension of credit is made, rescind the extension of credit without penalty or charge;

(ix) the owner of the homestead and the lender sign a written acknowledgment as to the fair market value of the homestead property on the date the extension of credit is made; and

(x) the lender or any holder of the note for the extension of credit shall forfeit all principal and interest of the extension of credit if the lender or holder fails to comply with the lender's or holder's obligations under the extension of credit within a reasonable time after the lender or holder is notified by the borrower of the lender's failure to comply; [or]

(7) a reverse mortgage; or

(8) the conversion and refinance of a personal property lien secured by a manufactured home to a lien on real property, including the refinance of the purchase price of the manufactured home, the cost of installing the manufactured home on the real property, and the refinance of the purchase price of the real property.

SECTION 2. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by the 77th Legislature, Regular Session, 2001:

(1) prescribing requirements for imposing a lien for work and material used in the construction, repair, or renovation of improvements on residential homestead property; and

(2) including the conversion and refinance of a personal property lien secured by a manufactured home to a lien on real property as a debt on homestead property subject to a forced sale.

(b) The constitutional amendment takes effect January 1, 2002.

(c) This temporary provision expires January 2, 2002.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 6, 2001. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment prescribing requirements for imposing a lien for work and material used in the construction, repair, or renovation of improvements on residential homestead property and including the conversion and refinance of a personal property lien secured by a manufactured home to a lien on real property as a debt on homestead property protected from a forced sale."

**HJR 81 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Averitt called up with senate amendments for consideration at this time,

HJR 81, A joint resolution proposing a constitutional amendment providing for the issuance of additional general obligation bonds by the Texas Water Development Board.

Representative Averitt moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HJR 81**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HJR 81**: Counts, chair, Walker, R. Lewis, Cook, and Geren.

HJR 82 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Averitt called up with senate amendments for consideration at this time,

HJR 82, A joint resolution proposing a constitutional amendment authorizing the Veterans' Land Board to issue additional general obligation bonds and to use certain assets in certain funds to provide for veterans homes and veterans cemeteries and to make certain payments on revenue bonds.

On motion of Representative Averitt, the house concurred in the senate amendments to **HJR 82** by (Record 609): 110 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Christian; Clark; Coleman; Corte; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Grusendorf; Haggerty; Hamric; Hardcastle; Hartnett; Hill; Hinojosa; Hodge; Hope; Hopson; Howard; Hunter; Hupp; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; Kitchen; Krusee; Kuempel; Lewis, G.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Noriega; Oliveira; Olivo; Pickett; Pitts; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uher; Uresti; West; Wohlgemuth; Woolley; Yarbrough.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Capelo; Crownover; Green; Hawley; Hilbert; Hilderbran; Isett; Janek; Jones, D.; Kolkhorst; Miller; Walker; Williams; Zbraneck.

Absent, Excused, Committee Meeting — Cook; Counts; Hochberg; King, T.; Lewis, R.; Martinez Fischer; Puente; Sadler; Tillery.

Absent — Bailey; Crabb; Craddick; Dunnam; Gallego; Gutierrez; Heflin; Homer; Naishtat; Najera; Nixon; Talton; Villarreal; Wilson; Wise; Wolens.

STATEMENT OF VOTE

When Record No. 609 was taken, I was in the house but away from my desk. I would have voted yes.

Crabb

Senate Committee Substitute

CSHJR 82, A joint resolution proposing a constitutional amendment authorizing the Veterans' Land Board to issue additional general obligation bonds and to use certain assets in certain funds to provide for veterans cemeteries.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 49-b, Article III, Texas Constitution, is amended by amending Subsection (s) and adding Subsection (w) to read as follows:

(s) If the Board determines that assets from the Veterans' Land Fund, the Veterans' Housing Assistance Fund, or the Veterans' Housing Assistance Fund II are not required for the purposes of the fund, the Board may:

(1) transfer the assets to another of those funds;

(2) ~~[or]~~ use the assets to secure revenue bonds issued by the Board;

or

(3) use the assets to plan and design, operate, maintain, enlarge, or improve veterans cemeteries [under this section].

(w) In addition to the general obligation bonds authorized to be issued and to be sold by the Veterans' Land Board by previous constitutional amendments, the Veterans' Land Board may provide for, issue, and sell general obligation bonds of the state to provide home mortgage loans to veterans of the state. The principal amount of outstanding bonds authorized by this subsection may not at any one time exceed \$500 million. The bond proceeds shall be deposited in or used to benefit and augment the Veterans' Housing Assistance Fund II and shall be administered and invested as provided by law. Payments of principal and interest on the bonds, including payments made under a bond enhancement agreement with respect to principal of or interest on the bonds, shall be made from the sources and in the manner provided by this section for general obligation bonds issued for the benefit of the Veterans' Housing Assistance Fund II.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 6, 2001. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment authorizing the Veterans' Land Board to issue up to \$500 million in general obligation bonds payable from the general revenues of the state for veterans' housing assistance and to use assets in certain veterans' land and veterans' housing assistance funds to provide for veterans cemeteries."

HJR 85 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Bosse called up with senate amendments for consideration at this time,

HJR 85, A joint resolution proposing a constitutional amendment to allow current and retired public school teachers and retired public school administrators to receive compensation for serving on the governing bodies of school districts, cities, towns, or other local government districts.

On motion of Representative Bosse, the house concurred in the senate amendments to **HJR 85** by (Record 610): 114 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Christian; Clark; Coleman; Corte; Crabb; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hill; Hinojosa; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; Kitchen; Krusee; Kuempel; Lewis, G.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Najera; Noriega; Oliveira; Olivo; Pickett; Pitts; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uher; Uresti; West; Wohlgemuth; Woolley; Yarbrough.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Capelo; Crownover; Green; Hawley; Hilbert; Hilderbran; Isett; Janek; Jones, D.; Kolkhorst; Miller; Walker; Williams; Zbraneck.

Absent, Excused, Committee Meeting — Cook; Counts; Hochberg; King, T.; Lewis, R.; Martinez Fischer; Puente; Sadler; Tillery.

Absent — Bailey; Craddick; Dunnam; Heflin; Naishtat; Nixon; Ramsay; Talton; Villarreal; Wilson; Wise; Wolens.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HJR 85** as follows:

(1) In SECTION 1 of the resolution, in amended Section 40(b), Article XVI, Texas Constitution, between "governing body of" and "a water district", insert "a school district, city, town, or local governmental district, including".

(2) In SECTION 2 of the resolution, strike "local government districts" and substitute "local governmental districts, including water districts".

SB 1057 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Rangel, the house granted the request of the senate for the appointment of a conference committee on **SB 1057**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1057**: Rangel, chair, Morrison, Goolsby, Uher, and Coleman.

(Tillery now present)

**HB 1869 - HOUSE DISCHARGES CONFEREES
HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Wohlgemuth called up with senate amendments for consideration at this time,

HB 1869, A bill to be entitled An Act relating to the aquisition of manufactured homes through financing or other means and to persons associated with those acquisitions.

Representative Wohlgemuth moved to discharge the conferees and concur in the senate amendments to **HB 1869**.

The motion prevailed without objection.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1869** by adding a new section and renumbering the subsequent sections appropriately:

Section _____. Section 6A, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), is amended by adding a new Subsection (c) to read as follows:

(c) A retailer, broker, salesperson or any person acting on behalf of a retailer or broker shall not receive nor accept any compensation or consideration of any kind or type whatsoever from the seller of the real estate or any person acting on the seller's behalf. No part of the down payment on the purchase of the manufactured home nor the payment of any fees, points, or other charges or "buy-downs" shall be from funds from the seller of the real estate or any person acting on the seller's behalf.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 1869** by adding a new section and renumbering the subsequent sections appropriately:

SECTION _____. Amend Subsection 19(1), Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), to read as follows:

(1) If a manufactured home is permanently affixed or becomes an improvement to real estate, the manufacturer's certificate or the original document of title shall ~~may~~ be surrendered to the department for cancellation. The legal description or the appropriate tract or parcel number of the real estate must be given to the department when the certificate or document of title is surrendered. The director may require the filing of other information. The department may not cancel a manufacturer's certificate or a document of title if a lien has been registered or recorded on the manufactured home. If a lien has been registered or recorded, the department shall notify the owner and each lienholder that the title and a description of the lien have been surrendered to the department and that the department may not cancel the title until the lien is released. Permanent attachment to real estate does not affect the validity of a lien recorded or registered with the department before the manufactured home is permanently attached. The rights of a prior lienholder pursuant to a security

agreement or the provisions of a credit transaction and the rights of the state pursuant to a tax lien are preserved. The department shall issue a certificate of attachment to real estate to the person who surrenders the manufacturer's certificate or document of title. The certificate of attachment must contain the legal description or the appropriate tract or parcel number of the real estate and the identification number of the home, and must certify that the manufacturer's certificate or original document of title has been canceled. Before the issuance of a certificate of attachment, a title insurance company authorized to do business in this state which surrenders the manufacturer's certificate or the original document of title to the department shall file a notice of improvement attachment in the real property records of the county in which the home is located. The notice must state that the manufacturer's certificate or the original document of title has been surrendered for cancellation and a request has been made for the issuance of a certificate of attachment. The notice must include information sufficient to identify the home and must contain the legal description or the appropriate tract or parcel number of the real property on which the home is located. The notice is valid for all purposes until the certificate of attachment is issued and filed in the real property records of the appropriate county.

Senate Amendment No. 3 (Senate Floor Amendment No. 3)

Amend **HB 1869** as follows:

(1) On page 1, line 26: insert the following after the period: "If the real property is purchased under a contract of sale, the contract must be filed in the real property records of the county in which the home is installed."

(2) On page 1, line 30, strike "Administration, regardless of whether any financing of the manufactured home occurs through that agency" and substitute "Administration (FHA), Fanny Mae, or Freddie Mac for long term mortgage loans or for FHA insurance"

(3) On page 1, line 36, insert the following after "by" and before "the": "a purchaser or county in".

(4) On page 1, line 43, insert a new subsection (g) after the period: "(g) A manufactured home classified as real property by this section and Section 2.001, Property Code, shall not be regulated by a local political subdivision or a municipality in a manner which is not the same as the regulation of other single family residential structures."

(5) On page 1, line 47, strike "At the first personal meeting between a retailer or agent of the retailer and a consumer" and substitute "Prior to the completion of a credit application".

On page 2, strike lines 31 through 40 and substitute the following: "You are liable for the payment of all ad valorem taxes assessed against your home by the municipality, county, school district, and other tax authorities (utility district, community college, etc.). As with other residential structures, the applicable tax rate will apply to the market value of the home. You should contact the local chief appraiser or the county tax collector for specific tax information. They will need to know the price you paid for, and the specific location of, the home. If the manufactured home is your principal place of residence, you should be able to claim a HOMESTEAD EXEMPTION. You should also make certain that the lot or land you are purchasing is not subject to any rollback tax liability because of the change in use of the property."

On page 3, line 48, strike "10" and substitute "30".

On page 3, line 63, "10" and substitute "30".

Senate Amendment No. 4 (Senate Floor Amendment No. 4)

Amend **HB 1869** by adding a new section and renumbering the subsequent sections appropriately:

SECTION _____. Amend Chapter 32.014, Tax Code, to read as follows:

Section 32.014. TAX LIEN ON MANUFACTURED HOME [~~SUBJECT TO SECURITY INTEREST~~]. (a) If the ownership of the real estate on which a manufactured home is affixed and the manufactured home are the same, the manufactured home shall be appraised and taxed as an improvement to the real estate, and the tax lien attaches to the real estate on which the manufactured home is located regardless of the classification of the manufactured home under the Property Code [A tax lien to secure the payment of a tax and any penalties and interest imposed on a manufactured home does not attach to the real property on which the manufactured home is located, even if the manufactured home is affixed to the real property by installation on a permanent foundation, if on the January 1 on which the tax is imposed, the manufactured home is subject to a lien of record on a document of title issued on the manufactured home by the Texas Department of Housing and Community Affairs. If such a lien is not of record on January 1 and the ownership of the manufactured home and the real property is the same, the manufactured housing may be appraised and taxed as an improvement to real property, notwithstanding any other law relating to the classification of manufactured housing as real or personal property].

(b) If the ownership of the manufactured home, whether by deed or contract for sale, and the real estate on which the manufactured home is affixed is not the same, the personal property manufactured home shall be separately appraised and taxed at the same rate and on the same ad valorem basis as other single family residential structures. The tax lien on the manufactured home does not attach to the real estate when the ownership of the manufactured home and real estate are different.

(c) In this section, 'manufactured home' has the meaning assigned by Section 3, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes).

Senate Amendment No. 5 (Senate Floor Amendment No. 5)

Amend **HB 1869** by adding a new section and renumbering the subsequent sections appropriately:

SECTION _____. Chapter 62, Property Code, is amended by adding a new Section 62.005 to read as follows:

Section 62.005. CONVERSION OF LIEN FROM A PERSONAL PROPERTY LIEN TO A REAL PROPERTY LIEN FOR THE DEBT FOR THE NEW IMPROVEMENTS THEREON. (a) A manufactured home becomes a new improvement to the homestead of a family or of a single adult person upon the filing of the Certificate of Attachment as provided in Article 5221(f), Vernon's Annotated Texas Statutes. As such, if the debt for the manufactured home was contracted for in writing, that debt is considered to be for work and materials used in constructing new improvements thereon

and thus constitutes a valid lien on the homestead when the Certificate of Attachment is filed in the Official Public Records of Real Property in the County in which the land is located.

(b) When the manufactured home converts to real property as provided by Section 2.001(b) of this code, the lien on the property exists independently of any existing lien on the real property to which the home is permanently attached.

Senate Amendment No. 6 (Senate Floor Amendment No. 6)

Amend **HB 1869** by adding a new section and renumbering the subsequent sections appropriately:

SECTION _____. Amend Chapter 62.004, Property Code, to read as follows:

Section 62.004. REFINANCING OF LIEN. (a) A person who provides funds to refinance a lien secured by a manufactured home is subrogated to the lien position of the previous lienholder.

(b) If the holder of a lien secured by a manufactured home transfers loan or credit advance documents to a lender refinancing the lien, that lender and a title insurance company, title insurance agent or direct operation, or attorney to whom the loan or credit advance documents are delivered holds the loan or credit advance documents in trust for that lienholder. In this subsection, "direct operation" has the meaning assigned by Article 9.02, Insurance Code.

(c) A lien that is converted to a purchase money lien on real property under Section 62.003, or a lien for the debt for new improvements thereon under Section 62.005, may be refinanced with another lien on the real property to which the manufactured home is permanently attached as provided by Section 2.001(b).

Senate Amendment No. 7 (Senate Floor Amendment No. 7)

Amend **HB 1869** as follows:

(1) On page 1, line 38, strike "September 1, 2001" and substitute "January 1, 2002".

(2) On page 3, line 33, strike "September 1, 2001" and substitute "January 1, 2002".

(3) On page 4, strike lines 23-25 and substitute the following: "SECTION 4. (a) The change made to Article 5221f, Section 6A, Vernon's Texas Civil Statutes, takes effect September 1, 2001. (b) The remaining changes in law made by this Act apply only to a manufactured home that is acquired by a consumer on or after the effective date of this Act."

(3) On page 4, line 26, strike "September 1, 2001" and substitute "January 1, 2002".

Senate Amendment No. 8 (Senate Floor Amendment No. 8)

Amend **HB 1869** as follows:

On page 1, line 30, strike "regardless of whether any financing of the manufactured home occurs through that agency" and substitute "Fanny Mae, or Freddie Mac for long-term mortgage loans or for FHA insurance".

Senate Amendment No. 9 (Senate Floor Amendment No. 9)

Amend Second Reading Floor Amendment No. 3 for **HB 1869** by striking subdivision (4) in its entirety (lines 12 through 17).

**SB 1783 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Wolens, the house granted the request of the senate for the appointment of a conference committee on **SB 1783**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1783**: Wolens, chair, Counts, Hawley, Dutton, and Bailey.

**HB 3171 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS**

Representative Thompson called up with senate amendments for consideration at this time,

HB 3171, A bill to be entitled An Act relating to the creation, composition, and operation of certain district courts.

Representative Thompson moved that the house not concur in the senate amendments.

The motion prevailed without objection.

**HB 2310 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Chisum called up with senate amendments for consideration at this time,

HB 2310, A bill to be entitled An Act relating to the continuation and functions of the State Soil and Water Conservation Board and to the election of directors of local soil and water conservation districts.

On motion of Representative Chisum, the house concurred in the senate amendments to **HB 2310**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2310**, as engrossed, as follows:

On page 9, line 27, strike "Notwithstanding" and substitute "Except as required by Subchapter L,".

**HB 1689 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Chisum called up with senate amendments for consideration at this time,

HB 1689, A bill to be entitled An Act relating to an exemption from ad valorem taxation for certain organizations engaged primarily in performing charitable functions.

On motion of Representative Chisum, the house concurred in the senate amendments to **HB 1689**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1689** as follows:

(1) On page 1, between lines 22-23, insert the following and reletter the subsequent subsections accordingly:

"(b) An exemption under this section may not be granted unless the exemption is adopted either:

(1) by the governing body of the taxing unit; or

(2) by a favorable vote of a majority of the qualified voters of the taxing unit at an election called by the governing body of a taxing unit, and the governing body shall call the election on the petition of at least 20 percent of the number of qualified voters who voted in the preceding election of the taxing unit."

(2) On page 1, line 23, strike "A" and substitute the following: "If approved under subsection (b), a"

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 3).

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

Gallego on motion of Gutierrez.

HB 2890 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative McClendon called up with senate amendments for consideration at this time,

HB 2890, A bill to be entitled An Act relating to the creation of an offense prohibiting certain persons in custody from contacting their victims.

Representative McClendon moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2890**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2890**: McClendon, chair, Hinojosa, Keel, Naishtat, and Kitchen.

HB 3081 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Burnam called up with senate amendments for consideration at this time,

HB 3081, A bill to be entitled An Act relating to imposing liens on aircraft for nonpayment of fuel charges.

On motion of Representative Burnam, the house concurred in the senate amendments to **HB 3081**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3081** in SECTION 2 of the bill, in Section 70.303, Property Code, as amended by the bill, by striking "120th" and substituting "180th [~~120th~~]" (senate committee printing, page 1, line 25).

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today because of important business:

P. King on motion of Morrison.

**HB 3473 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Naishtat called up with senate amendments for consideration at this time,

HB 3473, A bill to be entitled An Act relating to prohibiting employer retaliation against certain employees who report child abuse or neglect.

On motion of Representative Naishtat, the house concurred in the senate amendments to **HB 3473**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3473** (Senate Committee Printing) as follows:

(1) In SECTION 1 of the bill, in proposed Section 261.110, Family Code (page 1, between lines 48 and 49), insert the following:

(f) A public employee who alleges a violation of this section may sue the employing state or local governmental entity for the relief provided for by this section. Sovereign immunity is waived and abolished to the extent of liability created by this section. A person having a claim under this section may sue a governmental unit for damages allowed by this section.

(g) In a suit under this section against an employing state or local governmental entity, a plaintiff may not recover compensatory damages for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses in an amount that exceeds:

(1) \$50,000, if the employing state or local governmental entity has fewer than 101 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year;

(2) \$100,000, if the employing state or local governmental entity has more than 100 and fewer than 201 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year;

(3) \$200,000, if the employing state or local governmental entity has more than 200 and fewer than 501 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year; and

(4) \$250,000, if the employing state or local governmental entity has more than 500 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year.

(h) If more than one subdivision of Subsection (g) applies to an

employing state or local governmental entity, the amount of monetary damages that may be recovered from the entity in a suit brought under this section is governed by the applicable provision that provides the highest damage award.

(2) Reletter the subsequent subsections of proposed Section 261.110, Family Code, accordingly.

HB 1838 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Denny called up with senate amendments for consideration at this time,

HB 1838, A bill to be entitled An Act relating to the distance between certain pits that are part of quarrying operations and adjacent property.

On motion of Representative Denny, the house concurred in the senate amendments to **HB 1838**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1838** in SECTION 1 of the bill, in added Section 133.901, Natural Resources Code, between the period and "At" (Senate committee printing, page 1, line 14), by inserting the following:

(a) This section applies only to a county with a population of more than 400,000 and less than 475,000.

(b)

HB 1883 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Thompson called up with senate amendments for consideration at this time,

HB 1883, A bill to be entitled An Act relating to durable powers of attorney and statutory durable powers of attorney.

On motion of Representative Thompson, the house concurred in the senate amendments to **HB 1883**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1883** by striking all below the enacting clause and substituting the following:

SECTION 1. Sec. 489B. Texas Probate Code, is amended to read as follows:

Sec. 489B. DUTY TO INFORM AND ACCOUNT. (a) The attorney in fact or agent is a fiduciary and has a duty to inform and to account for actions taken pursuant to the power of attorney.

(b) The attorney in fact or agent shall timely inform the principal of all actions taken pursuant to the power of attorney. Failure of the attorney in fact or agent to inform timely, as to third parties, shall not invalidate any action of the attorney in fact or agent.

(c) The attorney in fact or agent shall maintain records of each action taken or decision made by the attorney in fact or agent.

(d) The principal may demand an accounting by the attorney in fact or

agent. Unless otherwise directed by the principal the accounting shall include:

(1) The property belonging to the principal that has come to the attorney in fact's or agent's knowledge or into the attorney in fact's or agent's possession;

(2) All actions taken or decisions made by the attorney in fact or agent;

(3) A complete account of receipts, disbursements, and other actions of the attorney in fact or agent, including their source and nature, with receipts of principal and income shown separately;

(4) A listing of all property over which the attorney in fact or agent has exercised control, with an adequate description of each asset and its current value if known to the attorney in fact or agent;

(5) The cash balance on hand and the name and location of the depository where the balance is kept;

(6) All known liabilities; and

(7) Such other information and facts known to the attorney in fact or agent as may be necessary to a full and definite understanding of the exact condition of the property belonging to the principal.

(e) Unless directed otherwise by the principal, the attorney in fact or agent shall also provide to the principal all documentation regarding the principal's property.

(f) The attorney in fact or agent shall maintain all records until delivered to the principal, released by the principal, or discharged by a court.

(g) If the attorney in fact or agent fails or refuses to inform the principal, provide documentation, or deliver the accounting within 60 days (or such longer or shorter time that the principal demands or a court may order) the principal may file suit to compel the attorney in fact or agent to deliver the accounting, to deliver the assets or to terminate the power of attorney.

(h) This section shall not limit the right of the principal to terminate the power of attorney or to make additional requirements of or to give additional instructions to the attorney in fact or agent.

(i) Where ever in this chapter a principal is given an authority to act that shall include not only the principal but also any person designated by the principal, a guardian of the estate of the principal, or other personal representative of the principal.

(j) The rights set out in this section and chapter is cumulative of any other rights or remedies the principal may have at common law or other applicable statutes and not in derogation of those rights.

SECTION 2. This Act takes effect September 1, 2001.

HB 45 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative McClendon called up with senate amendments for consideration at this time,

HB 45, A bill to be entitled An Act relating to a mile-based rating plan for motor vehicle insurance.

On motion of Representative McClendon, the house concurred in the senate amendments to **HB 45**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 45** by deleting section 2(c).

**HB 553 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Mowery called up with senate amendments for consideration at this time,

HB 553, A bill to be entitled An Act relating to the admissibility in a criminal proceeding of a statement made as a result of certain custodial interrogations and obtained in compliance with the laws of another state or the United States.

On motion of Representative Mowery, the house concurred in the senate amendments to **HB 553**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 553** in Section 8, Subsection (1), after "laws of that state" Insert, "or this state"

**HB 1148 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Hardcastle called up with senate amendments for consideration at this time,

HB 1148, A bill to be entitled An Act relating to notice of proposed construction sent to the county commissioners court and others regarding, and the marking, location, and removal of, certain wireless communication facilities.

Representative Hardcastle moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1148**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1148**: Cook, chair, Hardcastle, Ramsay, Keffer, and Ritter.

**HB 1168 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Wilson called up with senate amendments for consideration at this time,

HB 1168, A bill to be entitled An Act relating to certain conduct in lobbying; providing a penalty.

On motion of Representative Wilson, the house concurred in the senate amendments to **HB 1168**.

Senate Committee Substitute

CSHB 1168, A bill to be entitled An Act relating to certain conduct in lobbying; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 305.002(9), Government Code, is amended to read as follows:

(9) "Registrant" means a person required to register under Section 305.003 or 305.030.

SECTION 2. Subchapter B, Chapter 305, Government Code, is amended by adding Sections 305.028 and 305.029 to read as follows:

Sec. 305.028. PROHIBITED CONFLICTS OF INTEREST. (a) Except as permitted by Subsection (c), a registrant may not represent opposing parties in communicating directly with a member of the legislative or executive branch to influence the same legislation or administrative action and may not provide political services, as defined by Section 305.030, to opposing parties.

(b) Except as permitted by Subsection (c), a registrant may not represent a person in communicating directly with a member of the legislative or executive branch to influence legislation or administrative action and may not provide political services, as defined by Section 305.030, to a person if the representation of that person or provision of political services to that person:

(1) involves a substantially related matter in which that person's interests are materially and directly adverse to the interests of:

(A) another client of the registrant;

(B) an employer or concern employing the registrant; or

(C) another client of a partner or other person associated with the registrant; or

(2) reasonably appears to be or potentially be adversely limited by:

(A) the registrant's, the employer's or concern's, or the partner's or other associated person's responsibilities to another client or to a third person; or

(B) the registrant's, employer's or concern's, or partner's or other associated person's own interests.

(c) A registrant may represent a client in the circumstances described in Subsection (a) or (b) if:

(1) the registrant reasonably believes the representation of each client will not be materially affected;

(2) not later than the second business day after the date the registrant becomes aware of an actual or potential conflict described by Subsection (a) or (b), the registrant provides written notice, in the manner required by the commission, to each affected or potentially affected client; and

(3) not later than the 10th day after the date the registrant becomes aware of an actual or potential conflict described by Subsection (a) or (b), the registrant files with the commission a statement indicating that there is an actual or potential conflict and that the registrant has notified each affected or potentially affected client as required by Subdivision (2).

(d) If a registrant has accepted representation in conflict with the restrictions of this section, or if multiple representation properly accepted becomes improper under this section, the registrant shall promptly withdraw from one or more representations to the extent necessary for any remaining representation not to be in conflict with this section.

(e) If a registrant would be prohibited by this section from engaging in particular conduct, an employer or concern employing the registrant or a partner or other person associated with the registrant may not engage in that conduct.

(f) In each report filed with the commission, a registrant shall, under oath, affirm that the registrant has complied with this section.

(g) The commission may receive complaints regarding a violation of this section. If the commission determines a violation of this section has occurred, the commission, after notice and hearing:

(1) may impose any penalty that the commission may impose under another state law; and

(2) may rescind the person's registration and may prohibit the person from registering with the commission for a period not to exceed two years from the date of the rescission of the person's registration.

(h) A penalty under this section is in addition to any other enforcement action that the commission or another person may take under this chapter.

(i) A restriction on a registrant under this section is in addition to any restrictions on the registrant's conduct under Section 305.0011.

SECTION 3. Subchapter B, Chapter 305, Government Code, is amended by adding Section 305.030 to read as follows:

Sec. 305.030. CONFLICTS OF INTEREST OF POLITICAL CONSULTANTS; REGISTRATION REQUIRED. (a) In this section:

(1) "Candidate," "measure," "political advertising," and "political committee" have the meanings assigned by Section 251.001, Election Code.

(2) "Officeholder" means a person described by Section 251.002, Election Code.

(3) "Political services" means the following services provided in connection with an actual or potential election campaign of a candidate or officeholder or in connection with a measure:

(A) consulting in relation to political strategy;

(B) voter demographics and polling;

(C) speech writing;

(D) services related to political advertising; and

(E) planning and scheduling of public appearances.

(b) A person is subject to Section 305.028 and shall register with the commission in the manner provided under Section 305.005, if the person receives compensation of more than an amount determined by commission rule but not less than \$2,000 in a calendar quarter from a candidate, officeholder, or political committee to provide political services.

(c) The commission shall adopt rules as necessary to adapt the requirements of Section 305.005 to a person required to register under this section. The commission by rule shall require a person required to register under this section to file reports analogous to the reports required by Section 305.006. The commission by rule shall specify the contents of the reports.

(d) Sections 305.004, 305.0051, 305.006, 305.0061, 305.0062, 305.0063, 305.021-305.027, and 305.029 do not apply to a person required to register solely under this section.

SECTION 4. Section 305.031, Government Code, is amended to read as follows:

Sec. 305.031. CRIMINAL PENALTIES. (a) A person commits an offense

if the person intentionally or knowingly violates a provision of this chapter other than Section 305.0011, ~~[or] 305.022, or 305.028~~. An offense under this subsection is a Class A misdemeanor.

(b) A person commits an offense if the person intentionally or knowingly violates Section 305.022. An offense under this subsection is a felony of the third degree.

(c) A person commits an offense if the person knowingly violates Section 305.028. An offense under this subsection is a Class B misdemeanor.

(d) This chapter does not affect the criminal responsibility of a person under the state laws relating to perjury.

(e) ~~[(d)]~~ This section does not prohibit the commission from imposing a civil penalty for a violation.

SECTION 5. (a) This Act takes effect September 1, 2001.

(b) The change in law made by this Act applies only to a registrant's communication directly with a member of the legislative or executive branch to influence legislation or administrative action if the communication occurs on or after September 1, 2001. A communication that occurs before September 1, 2001, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 1168** as follows:

In SECTION 2 of the bill (Committee Printing page 2, between lines 25-26), insert the following new Subsection (j) to read as follows:

(j) A statement filed under Subsection (c) is not public information.

Senate Amendment No. 2 (Senate Floor Amendment No. 3)

Amend **CSHB 1168** as follows:

On page 1, line 15, to delete "or 305.030";

On page 1, lines 22 and 23, to delete "and may not provide political services, as defined by Section 305.030, to opposing parties";

On page 1, lines 27 and 28, to delete "and may not provide political services, as defined by Section 305.030, to a person";

On page 1, line 29, to delete "or provision of political services to that person";

On page 2, lines 26 through 61, to delete Section 3, adding Section 305.030, Government Code, in its entirety.

(Hawley now present)

HB 1902 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative S. Turner called up with senate amendments for consideration at this time,

HB 1902, A bill to be entitled An Act relating to the purposes for which the system benefit fund may be used.

On motion of Representative S. Turner, the house concurred in the senate amendments to **HB 1902**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1902** (Senate Committee Printing) by striking all below the enacting clauses and substituting the following:

"SECTION 1. Section 39.901, Utilities Code, is amended to read as follows:

Sec. 39.901. SCHOOL FUNDING LOSS MECHANISM. (a) Not later than August 31 ~~March 1~~ each year, the comptroller shall certify to the Texas Education Agency the statewide net loss in electric generating facility property value ~~[any property wealth reductions, determined by taking the difference between current year and prior year appraisal values]~~ attributable to electric utility restructuring. In calculating the statewide net loss in electric generating facility property value, the comptroller shall:

(1) subtract current year electric generating facility appraisal roll values, as defined by Section 25.24, Tax Code, from 1999 electric generating facility appraised value in each school district;

(2) sum the resulting property value losses (positive differences);

(3) sum the resulting property value gains (negative differences); and

(4) subtract the absolute value of the property value gains, subject to the limitation in Section 39.9011, from the absolute value of the property value losses to calculate a statewide net loss.

(b) The Texas Education Agency shall determine the amount necessary to compensate the state for the statewide net loss certified under subsection (a) by multiplying the statewide net loss by the average adopted property tax rate of the school districts that had losses, weighted by the value losses in each school district, and dividing the result by 100 ~~[reduction of the amount of property taxes recaptured by the state from school districts subject to wealth equalization under Chapter 41, Education Code, as a result of the property wealth reductions certified under Subsection (a)]~~ and shall notify the commission of the amount necessary to compensate the state for the reduction. The comptroller shall provide the Texas Education Agency the electric generating facility value losses in each school district used in subsection (a)(2) for use in calculating the weighted average property tax rate.

(c) ~~[The Texas Education Agency shall determine the amount necessary to compensate school districts for lost revenue resulting from the property wealth reductions under Subsection (a) and shall notify the commission of this amount. The amounts necessary to compensate districts shall be the sum of:~~

~~(1) decreases in the level of funding to which a school district is entitled under Chapters 42 and 46, Education Code, that are directly attributable to the decline in property values caused by utility restructuring; and~~

~~(2) losses of property tax collections incurred by school districts that are directly attributable to property value declines caused by utility restructuring and that are not accounted for under Subdivision (1), including amounts that a school district would be entitled to retain under Chapter 41, Education Code.]~~

~~[(d)]~~ The amounts determined by the comptroller and the Texas Education Agency under this section, for the purposes of this section, are final and may not be appealed.

~~(d) [(e)]~~ Not later than May 1 of each year, subject to Section 39.903 (b), the commission shall transfer from the system benefit fund to the

foundation school fund the amount ~~[amounts]~~ determined by the Texas Education Agency under Subsection (b) to the extent that funds are available. ~~[Subsections (b) and (c). If in any year the system benefit fund is insufficient to make the transfer designated by the Texas Education Agency, the shortfall shall be included in the projected revenue requirement for the system benefit fund the next time the commission sets the fee under Section 39.903, and the shortfall amount shall be transferred to the Foundation School Program the following year.]~~ Amounts transferred from the system benefit fund under this section may be appropriated only for the support of the Foundation School Program and are available, in addition to any amounts allocated by the General Appropriations Act, to finance actions under Section 41.002(b) or 42.2521 [42.252(c)], Education Code.

~~(e) [(f) The Texas Education Agency shall, on the transfer of funds from the system benefit fund to the foundation school fund, compensate school districts for losses incurred under Subsection (c).]~~

~~[(g)]~~ The commissioner of education and the comptroller shall adopt rules necessary to implement this section, including rules providing for public input.

~~(f) [(h)]~~ This section is effective through the 2006-2007 school year. This section expires August 31, 2007.

SECTION 2. Chapter 39, Utilities Code, is amended by adding Section 39.9011 to read as follows:

Sec. 39.9011. LIMITATION ON TOTAL PROPERTY VALUE GAINS. (a) If the absolute value of the total property value gains calculated as required by Section 39.901(a)(3) exceed 30 percent of the absolute value of the property value losses calculated as required by Section 39.901(a)(2), the comptroller shall cap the total property value gains at 30 percent of the property value losses before calculating the statewide net loss required by Section 39.901(a)(4).

(b) This section expires May 31, 2003.

SECTION 3. Section 39.903, Utilities Code, is amended to read as follows:

Sec. 39.903. SYSTEM BENEFITS FUND. (a) The system benefit fund is an account in the general revenue fund that may be appropriated only for the purposes provided by this section. Interest earned on the system benefit fund shall be credited to ~~[created as a trust fund with the comptroller and shall be administered by the commission as trustee on behalf of the recipients of money from]~~ the fund.

(b) The system benefit fund is financed by a nonbypassable fee set by the commission in an amount not to exceed 65 ~~[50]~~ cents per megawatt hour~~;~~ ~~except beginning on January 1, 2002, and ending on December 31, 2006, the commission may set the fee in an amount not to exceed 65 cents per magawatt hour to the extent necessary to collect sufficient revenue to fund the 10 percent reduced rate requirements of the program required by Subsection (h)].~~ The system benefit fund fee is allocated to customers based on the amount of kilowatt hours used.

(c) The nonbypassable fee may not be imposed on the retail electric customers of a municipally owned utility or electric cooperative before the sixth month preceding the date on which the utility or cooperative implements customer choice. Money distributed from the system benefit fund to a municipally owned utility or an electric cooperative shall be proportional to

the nonbypassable fee paid by the municipally owned utility or the electric cooperative, subject to the reimbursement provided by Subsection (i). On request by a municipally owned utility or electric cooperative, the commission shall reduce the nonbypassable fee imposed on retail electric customers served by the municipally owned utility or electric cooperative by an amount equal to the amount provided by the municipally owned utility or electric cooperative or its ratepayers for local low-income programs and local programs that educate customers about the retail electric market in a neutral and nonpromotional manner.

(d) The commission shall annually review and approve system benefit fund accounts, projected revenue requirements, and proposed nonbypassable fees. The commission shall report to the electric utility restructuring legislative oversight committee if the system benefit fund fee is insufficient to fund the purposes set forth in Subsection (e) to the extent required by this section.

(e) The system benefit fund shall provide funding solely for the following regulatory purposes and in the following order of priority:

(1) programs to assist low-income electric customers by providing the 10 percent reduced rate prescribed by Subsections (h) [provided by Subsections (f)-(f)];

(2) customer education programs, administrative expenses incurred by the commission in implementing and administering this chapter, and expenses incurred by the office under this chapter; [and]

(3) programs to assist low-income electric customers by providing the targeted energy efficiency programs described by Subsection (f)(2);

(4) the school funding loss mechanism provided by Section 39.901; and

(5) programs to assist low-income electric customers by providing the 20 percent reduced rate prescribed by Subsection (h).

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001."

HB 1921 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Maxey called up with senate amendments for consideration at this time,

HB 1921, A bill to be entitled An Act relating to the continuation of adoption assistance after the 18th birthday of certain children.

On motion of Representative Maxey, the house concurred in the senate amendments to **HB 1921**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1921** in SECTION 1 of the bill, in proposed Section 162.3041(a), Family Code (Senate committee printing page 1, line 17), by striking "Section 162.304(a)" and substituting "Section 162.304".

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 1921** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. The Department of Protective and Regulatory Services is required to implement this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the department may, but is not required to, implement this Act using other appropriations available for the purpose.

**HB 2146 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Edwards called up with senate amendments for consideration at this time,

HB 2146, A bill to be entitled An Act relating to provision of certain health benefit claims information to employers.

Representative Edwards moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2146**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2146**: Chisum, chair, Smithee, Allen, Haggerty, and Crownover.

**HB 2648 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Maxey called up with senate amendments for consideration at this time,

HB 2648, A bill to be entitled An Act relating to the administration of epinephrine by certain emergency medical services personnel.

On motion of Representative Maxey, the house concurred in the senate amendments to **HB 2648**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2648** by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter A, Chapter 773, Health and Safety Code, is amended by adding Section 773.014 to read as follows:

Sec. 773.014. ADMINISTRATION OF EPINEPHRINE. (a) An emergency medical services provider and a first responder organization may acquire and possess epinephrine auto-injector devices in accordance with this section. Emergency medical services personnel certified as emergency medical technicians or at a higher level of training may carry and administer epinephrine auto-injector devices in accordance with this section.

(b) The department shall adopt rules designed to protect the public health and safety to implement this section. The rules must provide that emergency medical services personnel certified as emergency medical technicians or at a higher level of training may administer an epinephrine auto-injector device to another only if the person has successfully completed a training course, approved by the department, in the use of the device that is consistent with the national standard training curriculum for emergency medical technicians.

(c) An emergency medical services provider or first responder organization may acquire, possess, maintain, and dispose of epinephrine auto-injector devices, and emergency medical services personnel certified as emergency medical technicians or at a higher level of training may carry, maintain, administer, and dispose of epinephrine auto-injector devices, only in accordance with:

(1) rules adopted by the department under this section; and

(2) a delegated practice agreement that provides for medical supervision by a licensed physician who either:

(A) acts as a medical director for an emergency medical services system or a licensed hospital; or

(B) has knowledge and experience in the delivery of emergency care.

(d) Emergency medical services personnel who administer epinephrine auto-injector devices to others shall immediately report the use to the physician supervising the activities of the emergency medical services personnel.

(e) The administration of an epinephrine auto-injector device to another under this section is considered to be the administration of emergency care for the purposes of any statute relating to liability for the provision of emergency care. The administration of an epinephrine auto-injector device to another in accordance with the requirements of this section does not constitute the unlawful practice of any health care profession.

(f) A person otherwise authorized to sell or provide an epinephrine auto-injector device to another may sell or provide the devices to an emergency medical services provider or a first responder organization authorized to acquire and possess the devices under this section.

(g) This section does not prevent emergency medical services personnel who are also licensed health care professionals under another health care licensing law and who are authorized to acquire, possess, and administer an epinephrine auto-injector device under the other health care licensing law from acting under the other law.

(h) This section does not impose a standard of care not otherwise required by law.

SECTION 2. (a) This Act takes effect January 1, 2002, except that this Act takes effect September 1, 2001, for the limited purpose of allowing the Texas Department of Health to adopt rules under Section 773.014, Health and Safety Code, as added by this Act, that may take effect before January 1, 2002.

(b) Before January 1, 2002, epinephrine auto-injector devices may be carried and administered by certain emergency medical services personnel to the extent allowed under the law that exists before September 1, 2001.

HB 2263 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Danburg called up with senate amendments for consideration at this time,

HB 2263, A bill to be entitled An Act relating to a guide for historical markers along roadways in this state.

On motion of Representative Danburg, the house concurred in the senate amendments to **HB 2263** by (Record 611): 116 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Christian; Clark; Coleman; Corte; Crabb; Craddick; Danburg; Davis, J.; Davis, Y.; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hawley; Hill; Hinojosa; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Jones, E.; Jones, J.; Junell; Keel; Keffer; Kitchen; Krusee; Kuempel; Lewis, G.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; West; Wilson; Wohlgemuth; Woolley; Yarbrough.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Capelo; Crownover; Gallego; Green; Hilbert; Hilderbran; Isett; Janek; Jones, D.; King, P.; Kolkhorst; Miller; Walker; Williams; Zbranek.

Absent, Excused, Committee Meeting — Cook; Counts; Hochberg; King, T.; Lewis, R.; Martinez Fischer; Puente; Sadler.

Absent — Averitt; Delisi; Dunnam; Flores; Hartnett; Heflin; Moreno, J.; Ritter; Wise; Wolens.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2263** by adding, at the end of proposed section 442.0065(e), Government Code, "Revenue from sales of the guide shall be deposited to the credit of the state highway fund and is exempt from the application of Section 403.095."

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 2263** by adding the following Subsection (f) to read as follows:

"(f) the department shall work with the commission to ensure that there is no duplication between publications currently available through the commission or other sources."

HB 266 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Ellis called up with senate amendments for consideration at this time,

HB 266, A bill to be entitled An Act relating to the conveyance of certain state property.

On motion of Representative Ellis, the house concurred in the senate amendments to **HB 266** by (Record 612): 117 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Christian; Clark; Coleman; Corte; Crabb; Craddick; Danburg; Davis, J.; Davis, Y.; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hawley; Hill; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Jones, E.; Jones, J.; Junell; Keel; Keffer; Kitchen; Krusee; Kuempel; Lewis, G.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; West; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Capelo; Crownover; Gallego; Green; Hilbert; Hilderbran; Isett; Janek; Jones, D.; King, P.; Kolkhorst; Miller; Walker; Williams; Zbranek.

Absent, Excused, Committee Meeting — Cook; Counts; Hochberg; King, T.; Lewis, R.; Martinez Fischer; Puente; Sadler.

Absent — Averitt; Delisi; Dunnam; Flores; Hartnett; Heflin; Hinojosa; Moreno, J.; Wise.

Senate Committee Substitute

CSHB 266, A bill to be entitled An Act relating to the conveyance of certain state property.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. (a) Not later than January 31, 2002, the Texas Board of Criminal Justice shall convey to the Board of Regents of the Texas State University System for use by Sam Houston State University the real property described by Subsection (e) of this section.

(b) The Texas Board of Criminal Justice shall convey the property by deed without warranty regarding covenants of title.

(c) The deed must include a provision that:

(1) requires Sam Houston State University to use the property for a governmental purpose; and

(2) indicates that title to the property will automatically revert to the Texas Board of Criminal Justice if Sam Houston State University fails to use the property for a governmental purpose.

(d) The Texas Board of Criminal Justice shall retain custody of the deed after the deed is filed in the real property records of Walker County.

(e) The real property referred to in this section is described as follows: Being an 345.58 acre tract of land located in the John Porter Survey, Abstract 38, Walker County, Texas, and being a portion of a residue of 1664.85 acres of land conveyed in deed from Albert E. Cunningham and wife, Julia S. Cunningham to the State of Texas for the Texas Department of Corrections, dated November 10, 1959, and recorded in the Deed Records of Walker County in Volume 165, Page 138; said 345.58 acre tract being more particularly described by metes and bounds as follows: BEGINNING at a concrete TxDOT monument found for the most westerly cutback corner of the intersection of the northeasterly right of way line of FM (Farm to Market) 980, based on a width of 80.00 feet, recorded in Volume 129, page 236, of the Deed Records of Walker County, and the northwesterly right of way line of SH (State Highway) 19, based on a width of 230.00 feet, and having grid coordinates of X= 3842823.28, Y= 10308432.06; all bearings and coordinates are based on the Texas State Plane Coordinate System, Central Zone, NAD 83, Adj. 1993. To convert to surface coordinates, divide by a combined scale factor of 0.99988; NGS Station BL2006 bears South 34°17'48" East, a grid distance of 5280.90 feet.

THENCE, North 48°15'45" West, along the northeasterly right of way line of FM 980, a distance of 1086.25 feet to a 5/8-inch iron rod set for an angle point; THENCE, North 49°54'44" West, continuing along the northeasterly right of way line of FM 980, a distance of 1312.47 feet to a 5/8-inch iron rod set for a point of curvature;

THENCE, in a northwesterly direction, continuing along the northeasterly right of way line of FM 980, with a curve to the left, having a central angle of 02°55'23", a radius of 5769.58 feet, an arc length of 294.34 feet, and a chord bearing of North 51°22'25" West, a distance of 294.31 feet to a 5/8-inch iron rod set for the point of tangency;

THENCE, North 52°50'07" West, continuing along the northeasterly right of way line of FM 980, a distance of 630.14 feet to a 5/8-inch iron rod set for a point of curvature;

THENCE, in a northwesterly direction, continuing along the northeasterly right of way line of FM 980, with a curve to the left, having a central angle of 06°37'26", a radius of 994.93 feet, an arc length of 115.02 feet, and a chord bearing of North 56°08'50" West, a distance of 114.96 feet to a 5/8-inch iron rod set in the southeast line of that certain tract of land as conveyed in deed to Horace M. Reeves and Mary Frances Reeves, dated December 16, 1993, and recorded in Volume 211, Page 629 of the Official Public Records of Walker County;

THENCE, North 14°38'33" West, along the easterly line of said Reeves tract, a distance of 186.96 feet to a fence corner for the northeast corner of said Reeves tract;

THENCE, North 64°58'09" West, along the northerly line of said Reeves tract and a fence line, a distance of 236.19 feet to a 3-inch iron pipe found in the

southerly line of a residue of 100 acres of land conveyed in deed to Sam W. Robbins, dated August 30, 1947, and recorded in Volume 120, Page 310, of the Deed Records of Walker County;

THENCE, North 42°10'24" East, along the southerly line of said Robbins tract and a fence line, a distance of 2439.03 feet to a 2-inch iron pipe found for the southeast corner of a residue of 100 acres of land conveyed in deed to Phillip M. Campbell, et al, dated May 9, 1985, and recorded in Volume 445, Page 408 of the Official Public Records of Walker County;

THENCE, North 47°35'56" West, along the easterly line of said Phillip M. Campbell, et al tract and a fence line, a distance of 3064.51 feet the Livingston Reservoir Pool Line, as described in deed to the Trinity River Authority, dated August 26, 1969, and recorded in Volume 223, Page 758 of the Deed Records of Walker County;

THENCE, along the Livingston Reservoir Pool Line the following:

North 69°30'00" East, 262.64 feet;
North 78°56'00" East, 182.39 feet;
South 70°51'00" East, 228.65 feet;
South 70°07'00" East, 399.84 feet;
South 77°51'00" East, 384.63 feet;
North 84°06'00" East, 349.86 feet;
South 81°01'00" East, 390.79 feet;
South 22°42'00" East, 59.62 feet;
North 22°27'00" East, 99.54 feet;
North 75°49'00" East, 89.74 feet;
South 86°31'00" East, 230.43 feet;
South 53°29'00" West, 230.20 feet;
North 67°12'00" East, 170.31 feet;
South 84°14'00" East, 99.50 feet;
North 50°43'00" East, 270.04 feet;
South 79°13'00" East, 149.64 feet;
North 59°58'00" East, 169.81 feet;
South 51°59'00" East, 69.81 feet;
South 02°00'00" East, 200.12 feet;
South 59°10'00" East, 150.23 feet;
South 81°01'00" East, 159.97 feet;
South 66°31'00" East, 449.20 feet;
South 48°04'00" West, 79.31 feet;
South 34°20'00" East, 49.65 feet;
North 27°51'00" East, 59.94 feet;
North 87°43'00" East, 50.04 feet;
South 47°52'00" West, 169.92 feet;
South 62°02'00" East, 219.65 feet;
North 54°21'00" East, 169.84 feet;
South 63°30'00" East, 430.22 feet;
North 50°50'00" East, 69.66 feet;
South 48°33'00" East, 160.11 feet;
South 55°47'00" West, 60.46 feet;
South 38°29'00" East, 49.82 feet;

North 66°02'00" East, 49.24 feet;
South 18°13'00" East, 249.51 feet;
South 36°52'00" West, 150.00 feet;
South 83°43'00" West, 100.60 feet;
North 49°21'00" West, 130.48 feet;
South 10°34'00" East, 120.03 feet;
South 10°18'00" West, 100.62 feet;
South 16°54'00" East, 199.61 feet;
South 09°29'00" East, 400.48 feet;
South 24°31'00" West, 200.03 feet;
South 37°04'00" West, 399.80 feet;
South 11°28'00" East, 70.41 feet;
South 19°53'00" West, 349.86 feet;
South 50°34'00" East, 80.28 feet;
South 02°04'00" West, 250.16 feet;
South 05°06'00" West, 179.71 feet;
South 36°52'00" West, 100.00 feet;
South 66°03'00" West, 500.06 feet;
North 53°58'00" West, 40.80 feet;
South 72°32'00" West, 129.99 feet;
North 62°24'00" West, 49.65 feet;
South 28°37'00" West, 50.12 feet;
South 86°34'00" West, 50.09 feet;
South 31°24'00" West, 90.21 feet;
South 69°23'00" West, 99.37 feet;
North 53°08'00" West, 150.00 feet;
South 15°37'00" West, 70.60 feet;
South 84°12'00" West, 59.30 feet;
South 10°47'00" West, 149.64 feet;
South 85°02'00" West, 219.82 feet;
South 68°12'00" East, 199.25 feet;
South 74°39'00" West, 200.14 feet;
South 48°08'00" East, 220.24 feet;
North 45°16'00" East, 299.82 feet;
North 83°17'00" East, 85.59 feet;
South 61°07'00" East, 99.36 feet;
South 28°04'00" East, 240.24 feet;
South 83°09'00" East, 50.36 feet;
South 24°48'00" East, 159.73 feet;
North 07°31'00" East, 290.50 feet;
North 63°55'00" East, 159.21 feet;
North 87°43'00" East, 400.32 feet;
South 29°53'00" East, 100.34 feet;
South 26°08'00" West, 120.30 feet;
South 48°29'00" West, 349.95 feet;
North 67°33'00" West, 49.77 feet;
South 22°44'00" East, 80.23 feet;
South 18°50'00" West, 179.62 feet;

South 51°04'00" East, 100.26 feet;

North 45°30'00" East, 79.91 feet;

North 70°18'00" East, 258.10 feet, to the northerly line of a 13.462 acre tract of land as described in deed conveyed to the Trinity River Authority, dated May 20, 1972, and recorded in the Deed Records of Walker County in Volume 247, Page 383;

THENCE, South 43°48'39" West, along the northerly line of said 13.462 acre tract and a fence line, a distance of 1160.92 feet to a fence corner found for the northwest corner of said 13.462 acre tract;

THENCE, South 64°55'27" East, along the westerly line of said 13.462 acre tract and a fence line, a distance of 611.66 feet to a 5/8-inch iron rod set in the northwesterly right of way line of SH 19;

THENCE, South 30°06'27" West, along the northwesterly right of way line of SH 19, a distance of 575.88 feet to a 5/8-inch iron rod set for the most easterly cutback corner of the intersection with FM 980;

THENCE, South 68°26'42" West, along said cutback corner, a distance of 162.00 feet to the POINT OF BEGINNING and containing 345.58 acres of land.

SECTION 2. (a) The Texas Board of Criminal Justice shall sell to the Texas Parks and Wildlife Department the tract of land associated with the Retrieve Unit of the Texas Board of Criminal Justice in Brazoria County.

(b) The Texas Parks and Wildlife Department shall purchase the land at fair market value.

(c) PROCEEDS. The proceeds from the sale of the property required by Section 2 of this Act shall be provided to the Texas Board of Criminal Justice.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 266** (Senate Committee Printing) by deleting SECTION 2 of the bill and renumbering the subsequent SECTIONS of the bill accordingly.

HB 2061 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Wilson called up with senate amendments for consideration at this time,

HB 2061, A bill to be entitled An Act relating to establishing a historical representation advisory committee.

Representative Wilson moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2061**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2061**: Wilson, chair, Olivo, Giddings, Goolsby, and Luna.

**HB 660 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Seaman called up with senate amendments for consideration at this time,

HB 660, A bill to be entitled An Act relating to career and technology education and training.

Representative Seaman moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 660**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 660**: Seaman, chair, Keffer, Luna, Yarbrough, and Zbranek.

(P. King now present)

**HB 2686 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Solis called up with senate amendments for consideration at this time,

HB 2686, A bill to be entitled An Act relating to tax incentives for certain businesses located in enterprise zones, defense readjustment zones, or strategic investment areas.

On motion of Representative Solis, the house concurred in the senate amendments to **HB 2686**.

Senate Amendment No. 1 (Senate Floor Amendment No.1)

Amend **HB 2686** by striking all below the enacting clause and substituting the following:

ARTICLE 1

SECTION 1.01. Section 2303.407, Government Code, is amended to read as follows:

Sec. 2303.407. **ALLOCATION OF JOBS ELIGIBLE FOR TAX REFUND.** When the department designates a business as an enterprise project, the department shall allocate to the project the maximum number of new permanent jobs or retained jobs eligible to be included in a computation of a tax refund for the project. The number may not exceed 250 [625] or a number equal to 110 percent of the number of anticipated new permanent jobs or retained jobs specified in the application for designation of the business as an enterprise project under Section 2303.405, whichever is less.

SECTION 1.02. Section 2303.504, Government Code, is amended to read as follows:

Sec. 2303.504. STATE TAX REFUNDS AND CREDITS [~~DEDUCTION~~]; REPORT. (a) Subject to Section 2303.516, an [A] enterprise project is entitled to:

- (1) a refund of state taxes under Section 151.429, Tax Code; and
- (2) a franchise tax credit under Subchapter P or Q, Chapter 171 [~~deduction from taxable capital under Section 171.1015~~], Tax Code.

(b) Subject to Section 2303.516, a [A] qualified business is entitled to a refund of state taxes under Sections 151.431 and 171.501, Tax Code.

(c) Not later than the 60th day after the last day of each fiscal year, the comptroller shall report to the department the statewide total of the tax refunds and credits made under this section during that fiscal year.

SECTION 1.03. Subchapter G, Chapter 2303, Government Code, is amended by adding Section 2303.516 to read as follows:

Sec. 2303.516. (a) The department may monitor a qualified business or enterprise project to determine whether and to what extent the business or project has followed through on any commitments made by it or on its behalf under this chapter.

(b) The department may determine that the business or project is not entitled to a refund or credit of state taxes under Section 2303.504 if the department finds that:

(1) the business or project is not willing to cooperate with the department in providing the department with the information the department needs to make the determination under Subsection (a); or

(2) the business or project has substantially failed to follow through on any commitments made by it or on its behalf under this chapter.

SECTION 1.04. Section 2310.404, Government Code, is amended to read as follows:

Sec. 2310.404. STATE TAX REFUNDS AND CREDITS [~~DEDUCTION~~]; REPORT. (a) Subject to Section 2310.413, a [A] defense readjustment project is eligible for:

- (1) a refund of state taxes under Section 151.4291, Tax Code;
- (2) a franchise tax credit under Subchapter P or Q, Chapter 171 [~~deduction from taxable capital under Section 171.1016~~], Tax Code; and

(3) the exclusion of receipts from service performed in a readjustment zone in the determination of gross receipts from business done in this state under Sections 171.103 and 171.1032, Tax Code.

(b) Not later than the 60th day after the last day of each fiscal year, the comptroller shall report to the department the statewide total of the tax refunds or credits made under this section during that fiscal year.

SECTION 1.05. Subchapter F, Chapter 2303, Government Code, is amended by adding Section 2310.413 to read as follows:

Sec. 2310.413. (a) The department may monitor a defense readjustment project to determine whether and to what extent the project has followed through on any commitments made by it or on its behalf under this chapter.

(b) The department may determine that the defense readjustment project is not eligible for state tax refunds and credits under Section 2310.404 if the department finds that:

- (1) the project is not willing to cooperate with the department in

providing the department with the information the department needs to make the determination under Subsection (a); or

(2) the project has substantially failed to follow through on its commitments made by it or on its behalf under this chapter.

SECTION 1.06. Sections 151.429(a) and (b), Tax Code, are amended to read as follows:

(a) An enterprise project is eligible for a refund in the amount provided by this section of the taxes imposed by this chapter on purchases of:

(1) equipment or machinery sold to an enterprise project for use in an enterprise zone;

(2) building materials sold to an enterprise project for use in remodeling, rehabilitating, or constructing a structure in an enterprise zone;

(3) labor for remodeling, rehabilitating, or constructing a structure by an enterprise project in an enterprise zone; [~~and~~]

(4) electricity and natural gas purchased and consumed in the normal course of business in the enterprise zone;

(5) tangible personal property purchased and consumed in the normal course of business in the enterprise zone; and

(6) taxable services.

(b) Subject to the limitations provided by Subsection (c) of this section, an enterprise project qualifies for a refund of taxes under this section of \$5,000 [~~\$2,000~~] for each new permanent job or job that has been retained by the enterprise project for a qualified employee.

SECTION 1.07. Section 151.4291(a), Tax Code, is amended to read as follows:

(a) A defense readjustment project is eligible for a refund in the amount provided by this section of the taxes imposed by this chapter on purchases of:

(1) equipment or machinery sold to a defense readjustment project for use in a readjustment zone;

(2) building materials sold to a defense readjustment project for use in remodeling, rehabilitating, or constructing a structure in a readjustment zone;

(3) labor for remodeling, rehabilitating, or constructing a structure by a defense readjustment project in a readjustment zone; [~~and~~]

(4) electricity and natural gas purchased and consumed in the normal course of business in the readjustment zone;

(5) tangible personal property purchased and consumed in the normal course of business in the readjustment zone; and

(6) taxable services.

SECTION 1.08. Section 171.751, Tax Code, is amended by amending Subdivision (9) and adding Subdivisions (13)-(16) to read as follows:

(9) "Qualifying job" means a new permanent full-time job that:

(A) is located in:

(i) a strategic investment area; [~~or~~]

(ii) a county within this state with a population of less than 50,000, if the job is created by a business primarily engaged in agricultural processing; or

(iii) an enterprise zone or a readjustment zone, regardless of whether the job meets the qualifications prescribed by Paragraphs

(B)-(F), if the job is created by a qualified business that has been designated as an enterprise project or defense readjustment project, respectively;

(B) requires at least 1,600 hours of work a year;

(C) pays at least 110 percent of the county average weekly wage for the county where the job is located;

(D) is covered by a group health benefit plan for which the business pays at least 80 percent of the premiums or other charges assessed under the plan for the employee;

(E) is not transferred from one area in this state to another area in this state; and

(F) is not created to replace a previous employee.

(13) "Defense readjustment project" means a person designated by the Texas Department of Economic Development as a defense readjustment project under Chapter 2310, Government Code, on or after September 1, 2001.

(14) "Enterprise project" means a person designated by the Texas Department of Economic Development as an enterprise project under Chapter 2303, Government Code, on or after September 1, 2001.

(15) "Enterprise zone" has the meaning assigned that term by Section 2303.003, Government Code.

(16) "Readjustment zone" has the meaning assigned that term by Section 2310.001, Government Code.

SECTION 1.09. Section 171.752(b), Tax Code, is amended to read as follows:

(b) A corporation may claim a credit or take a carryforward credit without regard to whether the strategic investment area, enterprise zone, or readjustment zone in which it created the qualifying jobs subsequently loses its designation as a strategic investment area, enterprise zone, or readjustment zone, if applicable.

SECTION 1.10. Section 171.754, Tax Code, is amended to read as follows:

Sec. 171.754. LENGTH OF CREDIT. (a) Except as provided by Subsection (b), the ~~[The]~~ credit established shall be claimed in five equal installments of one-fifth the credit amount over the five consecutive reports beginning with the report based upon the period during which the qualifying jobs were created.

(b) Subject to Section 171.755, a corporation that has been designated as an enterprise project or as a defense readjustment project may claim the entire credit earned during an accounting period against the taxes imposed for the corresponding reporting period.

SECTION 1.11. Section 171.801, Tax Code, is amended by amending Subdivision (2) and adding Subdivision (4) to read as follows:

(2) "Qualified capital investment" means tangible personal property first placed in service in a strategic investment area, ~~[or]~~ first placed in service in a county with a population of less than 50,000 by a corporation primarily engaged in agricultural processing, or first placed in service in an enterprise zone or defense readjustment zone by a qualified business that has been designated as an enterprise project or readjustment project, respectively, and that is described in Section 1245(a), Internal Revenue Code, such as engines, machinery, tools, and implements used in a trade or business or held for investment and subject to an allowance for depreciation, cost recovery under

the accelerated cost recovery system, or amortization. The term does not include real property or buildings and their structural components. Property that is leased under a capitalized lease is considered a "qualified capital investment," but property that is leased under an operating lease is not considered a "qualified capital investment." Property expensed under Section 179, Internal Revenue Code, is not considered a "qualified capital investment."

(4) "Defense readjustment project," "enterprise project," "enterprise zone," and "readjustment zone" have the meanings assigned by Section 171.751.

SECTION 1.12. Section 171.802(c), Tax Code, is amended to read as follows:

(c) A corporation may claim a credit or take a carryforward credit without regard to whether the strategic investment area, enterprise zone, or readjustment zone in which it made the qualified capital investment subsequently loses its designation as a strategic investment area, enterprise zone, or readjustment zone, if applicable.

SECTION 1.13. Section 171.804, Tax Code, is amended to read as follows:

Sec. 171.804. LENGTH OF CREDIT. (a) Except as provided by Subsection (b), the ~~[The]~~ credit established shall be claimed in five equal installments of one-fifth the credit amount over the five consecutive reports beginning with the report based upon the period during which the qualified capital investment was made.

(b) Subject to Section 171.805, a corporation that has been designated as an enterprise project or as a defense readjustment project may claim the entire credit earned during an accounting period against the taxes imposed for the corresponding reporting period.

SECTION 1.14. Section 171.721, Tax Code, is amended to read as follows:

Sec. 171.721. DEFINITIONS. In this subchapter:

(1) "Base amount," "basic research payment," and "qualified research expense" have the meanings assigned those terms by Section 41, Internal Revenue Code, except that all such payments and expenses must be for research conducted within this state.

(2) "Strategic investment area" means an area that is determined by the comptroller under Section 171.726 that is:

(A) a county within this state with above state average unemployment and below state average per capita income; ~~[or]~~

(B) an area within this state that is a federally designated urban enterprise community or an urban enhanced enterprise community; or

(C) a county within this state that has a spaceport, as defined by Section 4D, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), as added by Chapter 1537, Acts of the 76th Legislature, Regular Session, 1999, within its boundaries.

SECTION 1.15. Sections 171.1015, 171.1016, and 171.805(c), Tax Code, are repealed.

SECTION 1.16. (a) Except as provided by Subsection (b) of this section, this Article takes effect September 1, 2001. The changes in law made by this Article apply only to an enterprise project or defense readjustment project designated by the Texas Department of Economic Development as such a project on or after September 1, 2001. An enterprise project or defense

readjustment project designated before that date is governed by the law in effect on the date it was designated, and that law is continued in effect for that purpose.

(b) Sections 1.08-1.14 of this Article take effect September 1, 2003, and apply to a report originally due on or after that date. Notwithstanding any other law, an enterprise project or defense readjustment project designated on or after September 1, 2001, may, beginning on the date the project is designated, establish credits as provided by the changes in law made by Sections 1.08-1.13 of this Article but may only claim the credits on reports originally due on or after September 1, 2003.

(c) Subject to Section 151.429(f), Tax Code, an enterprise project or defense readjustment project designated on or after September 1, 2001, may apply for a refund for which the project is entitled under Sections 151.429(a)(1)-(4), Tax Code, as provided by Section 151.429, Tax Code. The comptroller may pay the refund as provided by Section 151.429, Tax Code, and other law.

(d) Subject to Section 151.429(f), Tax Code, an enterprise project or defense readjustment project designated on or after September 1, 2001, may accrue the right to a refund for which the project is entitled under Sections 151.429(a)(5) and (6), Tax Code, as added by this Article, and may apply for that refund as provided by Section 151.429, Tax Code. However, the comptroller may not pay a refund described by this subsection before September 1, 2003. Notwithstanding any other law, for purposes of determining whether interest accrues on a refund application submitted before September 1, 2003, the comptroller is considered to have made a final decision on the application for the refund on September 1, 2003.

(e) The change in law made by this Article does not affect taxes imposed before the effective date of this Article, and the former law is continued in effect for purposes of the liability for and collection of those taxes.

ARTICLE 2

SECTION 2.01. Section 2303.407, Government Code, is amended to read as follows:

Sec. 2303.407. ALLOCATION OF JOBS ELIGIBLE FOR TAX REFUND. When the department designates a business as an enterprise project, the department shall allocate to the project the maximum number of new permanent jobs or retained jobs eligible to be included in a computation of a tax refund for the project. The number may not exceed 625 or a number equal to 110 percent of the number of anticipated new permanent jobs or retained jobs specified in the application for designation of the business as an enterprise project under Section 2303.405, whichever is less.

SECTION 2.02. Section 2303.504, Government Code, is amended to read as follows:

Sec. 2303.504. STATE TAX REFUNDS [~~AND DEDUCTION~~]; REPORT.
(a) Subject to Section 2303.516, an [A] enterprise project is entitled to:-
 [~~(1) a refund of state taxes under Section 151.429, Tax Code; and~~
 [~~(2) a deduction from taxable capital under Section 171.1015, Tax Code~~].

(b) Subject to Section 2303.516, a [A] qualified business is entitled to a refund of state taxes under Sections 151.431 and 171.501, Tax Code.

(c) Not later than the 60th day after the last day of each fiscal year, the comptroller shall report to the department the statewide total of the tax refunds made under this section during that fiscal year.

SECTION 2.03. Section 2310.404, Government Code, is amended to read as follows:

Sec. 2310.404. STATE TAX REFUNDS [~~AND DEDUCTION~~]; REPORT.

(a) Subject to Section 2310.413, a [A] defense readjustment project is eligible for:

(1) a refund of state taxes under Section 151.4291, Tax Code; and

(2) [~~a deduction from taxable capital under Section 171.1016, Tax Code; and~~

[~~(3)~~] the exclusion of receipts from service performed in a readjustment zone in the determination of gross receipts from business done in this state under Sections 171.103 and 171.1032, Tax Code.

(b) Not later than the 60th day after the last day of each fiscal year, the comptroller shall report to the department the statewide total of the tax refunds made under this section during that fiscal year.

SECTION 2.04. Sections 151.429(a) and (b), Tax Code, are amended to read as follows:

(a) An enterprise project is eligible for a refund in the amount provided by this section of the taxes imposed by this chapter on purchases of:

(1) equipment or machinery sold to an enterprise project for use in an enterprise zone;

(2) building materials sold to an enterprise project for use in remodeling, rehabilitating, or constructing a structure in an enterprise zone;

(3) labor for remodeling, rehabilitating, or constructing a structure by an enterprise project in an enterprise zone; and

(4) electricity and natural gas purchased and consumed in the normal course of business in the enterprise zone.

(b) Subject to the limitations provided by Subsection (c) of this section, an enterprise project qualifies for a refund of taxes under this section of \$2,000 for each new permanent job or job that has been retained by the enterprise project for a qualified employee.

SECTION 2.05. Section 151.4291(a), Tax Code, is amended to read as follows:

(a) A defense readjustment project is eligible for a refund in the amount provided by this section of the taxes imposed by this chapter on purchases of:

(1) equipment or machinery sold to a defense readjustment project for use in a readjustment zone;

(2) building materials sold to a defense readjustment project for use in remodeling, rehabilitating, or constructing a structure in a readjustment zone;

(3) labor for remodeling, rehabilitating, or constructing a structure by a defense readjustment project in a readjustment zone; and

(4) electricity and natural gas purchased and consumed in the normal course of business in the readjustment zone.

SECTION 2.06. Section 171.751(9), Tax Code, is amended to read as follows:

(9) "Qualifying job" means a new permanent full-time job that:

(A) is located in:

(i) a strategic investment area; or
(ii) a county within this state with a population of less than 50,000, if the job is created by a business primarily engaged in agricultural processing;

(B) requires at least 1,600 hours of work a year;

(C) pays at least 110 percent of the county average weekly wage for the county where the job is located;

(D) is covered by a group health benefit plan for which the business pays at least 80 percent of the premiums or other charges assessed under the plan for the employee;

(E) is not transferred from one area in this state to another area in this state; and

(F) is not created to replace a previous employee.

SECTION 2.07. Section 171.752(b), Tax Code, is amended to read as follows:

(b) A corporation may claim a credit or take a carryforward credit without regard to whether the strategic investment area in which it created the qualifying jobs subsequently loses its designation as a strategic investment area, if applicable.

SECTION 2.08. Section 171.754, Tax Code, is amended to read as follows:

Sec. 171.754. LENGTH OF CREDIT. The credit established shall be claimed in five equal installments of one-fifth the credit amount over the five consecutive reports beginning with the report based upon the period during which the qualifying jobs were created.

SECTION 2.09. Section 171.801(2), Tax Code, is to read as follows:

(2) "Qualified capital investment" means tangible personal property first placed in service in a strategic investment area, or first placed in service in a county with a population of less than 50,000 by a corporation primarily engaged in agricultural processing, and that is described in Section 1245(a), Internal Revenue Code, such as engines, machinery, tools, and implements used in a trade or business or held for investment and subject to an allowance for depreciation, cost recovery under the accelerated cost recovery system, or amortization. The term does not include real property or buildings and their structural components. Property that is leased under a capitalized lease is considered a "qualified capital investment," but property that is leased under an operating lease is not considered a "qualified capital investment." Property expensed under Section 179, Internal Revenue Code, is not considered a "qualified capital investment."

SECTION 2.10. Section 171.802(c), Tax Code, is amended to read as follows:

(c) A corporation may claim a credit or take a carryforward credit without regard to whether the strategic investment area in which it made the qualified capital investment subsequently loses its designation as a strategic investment area, if applicable.

SECTION 2.11. Section 171.804, Tax Code, is amended to read as follows:

Sec. 171.804. LENGTH OF CREDIT. The credit established shall be claimed in five equal installments of one-fifth the credit amount over the five consecutive reports beginning with the report based upon the period during which the qualified capital investment was made.

SECTION 2.12. Section 171.721, Tax Code, is amended to read as follows:
Sec. 171.721. DEFINITIONS. In this subchapter:

(1) "Base amount," "basic research payment," and "qualified research expense" have the meanings assigned those terms by Section 41, Internal Revenue Code, except that all such payments and expenses must be for research conducted within this state.

(2) "Strategic investment area" means an area that is determined by the comptroller under Section 171.726 that is:

(A) a county within this state with above state average unemployment and below state average per capita income; or

(B) an area within this state that is a federally designated urban enterprise community or an urban enhanced enterprise community.

SECTION 2.13. Sections 171.751(13)-(16), and Section 171.801(4), Tax Code, are repealed.

SECTION 2.14. (a) Except as provided by Subsection (b) of this section, this Article takes effect September 1, 2005.

(b) Sections 2.06-2.13 of this Article take effect January 1, 2005, and apply to a report originally due on or after that date.

(c) The change in law made by this Article does not affect taxes imposed before the effective date of this Article, and the former law is continued in effect for purposes of the liability for and collection of those taxes.

(Kolkhorst now present)

HR 1308 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1308**, suspending the limitations on the conferees for **HB 2255**.

(Geren in the chair)

HB 2914 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Bonnen called up with senate amendments for consideration at this time,

HB 2914, A bill to be entitled An Act relating to state fiscal matter; making an appropriation.

Representative Bonnen moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2914**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3914**: Bonnen, chair, Chisum, Bosse, Oliveira, and Ritter.

(Speaker in the chair)

HB 2432 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Geren called up with senate amendments for consideration at this time,

HB 2432, A bill to be entitled An Act relating to the ratification of the creation of and to the administration, powers, duties, operation, and financing of the Lost Pines Groundwater Conservation District.

On motion of Representative Geren, the house concurred in the senate amendments to **HB 2432** by (Record 613): 113 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Callegari; Carter; Chavez; Chisum; Christian; Clark; Coleman; Corte; Crabb; Craddick; Danburg; Davis, J.; Davis, Y.; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Grusendorf; Haggerty; Hamric; Hardcastle; Hawley; Hill; Hinojosa; Hodge; Homer; Hope; Hopson; Hunter; Hupp; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Longoria; Luna; Madden; Marchant; Maxey; McClendon; Menendez; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uher; Uresti; West; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Capelo; Crownover; Gallego; Green; Hilbert; Hilderbran; Isett; Janek; Jones, D.; Miller; Walker; Williams; Zbranek.

Absent, Excused, Committee Meeting — Cook; Counts; Hochberg; King, T.; Lewis, R.; Martinez Fischer; Puente; Sadler.

Absent — Bailey; Burnam; Delisi; Dunnam; Flores; Gutierrez; Hartnett; Heflin; Howard; McCall; McReynolds; Talton; Tillery; Villarreal; Wise.

STATEMENT OF VOTE

When Record No. 613 was taken, I was in the house but away from my desk. I would have voted yes.

McCall

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2432** (Senate Committee printing) as follows:

(1) In SECTION 4(b)(1) of the bill (page 1, line 39) strike "36.108" and substitute "36.1073,".

(2) In SECTION 4 of the bill (page 1, lines 28-56) add a new Subsection (d) and reletter the subsequent Subsections as follows:

(d) Combined regulatory pumping fees for production and export of water may not exceed 17 cents per thousand gallons for water used.

(3) Add a new SECTION ____ titled EXEMPTIONS and renumber the subsequent Sections accordingly.

SECTION _____. EXEMPTIONS. The district may not require a permit for the drilling of a water well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas provided that the person holding the permit is responsible for drilling and operating the water well and the well is located on the same lease or field associated with the drilling rig.

(4) In SECTION 6(g) of the bill (page 2, line 32) insert "two" between "serve" and "consecutive" and the words "after the confirmation election" before the period at the end of the sentence.

(5) In SECTION 7(c) of the bill (page 2, lines 56-58) delete "and" and substitute "and 36.019" between "36.018," and "Water Code."

(6) In SECTION 7 of the bill (page 2, lines 43-62) strike Subsection (d) and substitute the following:

(d) If the majority of qualified voters in a county who vote in the election vote to confirm the creation of the district, that county is included in the district. If the majority of qualified voters in a county who vote in the election vote not to confirm the creation of the district, that county is excluded from the district.

(7) In SECTION 7 of the bill (page 2, lines 43-62) add a new Subsection (e) as follows:

(e) The district is dissolved and this article expires on August 31, 2003, unless the voters confirm the creation of the district before that date.

(8) In SECTION 9 of the bill (page 2, lines 66-69 and page 3, lines 1-20) strike the entire section.

(9) Add a new SECTION _____. and renumber the subsequent Sections accordingly.

SECTION _____. MEMBERSHIP ON THE CENTRAL CARRIZO-WILCOX COORDINATING COUNCIL. The district is a member of the Central Carrizo-Wilcox Coordinating Council.

(10) Add a new SECTION _____. and renumber the subsequent Sections accordingly.

SECTION _____. MANAGEMENT PLAN. The district shall develop or contract to develop its own management plan under Section 36.1071, Water Code, and submit it to the Central Carrizo-Wilcox Coordinating Council to be included in the management plan developed by the Central Carrizo-Wilcox Coordinating Council.

(11) In SECTION 11(b) of the bill (page 3, lines 44-46) strike "2005" and insert "2003."

SB 248 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Brimer, the house granted the request of the senate for the appointment of a conference committee on **SB 248**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 248**: Brimer, chair, Junell, McCall, Y. Davis, and Oliveira.

SB 317 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative McCall, the house granted the request of the senate for the appointment of a conference committee on **SB 317**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 317**: McCall, chair, Averitt, S. Turner, Bosse, and Chisum.

(J. Davis in the chair)

HB 2810 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Wolens called up with senate amendments for consideration at this time,

HB 2810, A bill to be entitled An Act relating to the application of statutes that classify political subdivisions according to population.

On motion of Representative Wolens, the house concurred in the senate amendments to **HB 2810**.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2810** by adding new sections to the bill, to be numbered appropriately, to read as follows and by renumbering the subsequent sections of the bill appropriately:

SECTION _____. Section 383.021(a), Local Government Code, is amended to read as follows:

(a) The commissioners court of a county with a population of 600,000 [~~400,000~~] or less, on petition of the owners of land in a proposed district, may commence the creation of a county development district.

SECTION _____. Section 352.107, Tax Code, is amended to read as follows:

Sec. 352.107. HOTEL TAX AUTHORIZED FOR COUNTY DEVELOPMENT DISTRICTS. Notwithstanding any other provision of this chapter to the contrary, a commissioners court of a county with a population of less than 600,000 [~~400,000~~] may impose a hotel occupancy tax not to exceed seven percent on a person who pays for the use or possession or for the right to the use or possession of a room in a hotel ordinarily used for sleeping that is located within the boundaries of the county development district created under Subchapter D, Chapter 312, and that is not located within the corporate limits of a municipality, subject to the limitations set forth in Sections 352.002(b) and (c). Taxes collected by a county under this section shall be remitted to the county development district not later than the 10th day after the date the county receives such funds and may be used by the district for the purposes for which sales and use tax proceeds may be used by the district.

SECTION _____. Section 11.18(d), Tax Code, is amended to read as follows:

(d) A charitable organization must be organized exclusively to perform religious, charitable, scientific, literary, or educational purposes and, except as

permitted by Subsections (h) and (l) of this section, engage exclusively in performing one or more of the following charitable functions:

(1) providing medical care without regard to the beneficiaries' ability to pay, which in the case of a nonprofit hospital or hospital system means providing charity care and community benefits as set forth in Paragraph (A), (B), (C), (D), (E), (F), (G), or (H):

(A) charity care and government-sponsored indigent health care are provided at a level which is reasonable in relation to the community needs, as determined through the community needs assessment, the available resources of the hospital or hospital system, and the tax-exempt benefits received by the hospital or hospital system;

(B) charity care and government-sponsored indigent health care are provided in an amount equal to at least four percent of the hospital's or hospital system's net patient revenue;

(C) charity care and government-sponsored indigent health care are provided in an amount equal to at least 100 percent of the hospital's or hospital system's tax-exempt benefits, excluding federal income tax;

(D) a nonprofit hospital that has been designated as a disproportionate share hospital under the state Medicaid program in the current year or in either of the previous two fiscal years shall be considered to have provided a reasonable amount of charity care and government-sponsored indigent health care and shall be deemed in compliance with the standards in this subsection;

(E) for tax years before 1996, charity care and community benefits are provided in a combined amount equal to at least five percent of the hospital's or hospital system's net patient revenue, provided that charity care and government-sponsored indigent health care are provided in an amount equal to at least three percent of net patient revenue;

(F) beginning with the hospital's or hospital system's tax year starting after 1995, charity care and community benefits are provided in a combined amount equal to at least five percent of the hospital's or hospital system's net patient revenue, provided that charity care and government-sponsored indigent health care are provided in an amount equal to at least four percent of net patient revenue;

(G) a hospital operated on a nonprofit basis that is located in a county with a population of less than 58,000 ~~[50,000]~~ and in which the entire county or the population of the entire county has been designated as a health professionals shortage area is considered to be in compliance with the standards provided by this subsection; or

(H) a hospital providing health care services to inpatients or outpatients without receiving any payment for providing those services from any source, including the patient or person legally obligated to support the patient, third-party payors, Medicare, Medicaid, or any other state or local indigent care program but excluding charitable donations, legacies, bequests, or grants or payments for research, is considered to be in compliance with the standards provided by this subsection;

(2) providing support or relief to orphans, delinquent, dependent, or handicapped children in need of residential care, abused or battered spouses or

children in need of temporary shelter, the impoverished, or victims of natural disaster without regard to the beneficiaries' ability to pay;

(3) providing support to elderly persons, including the provision of recreational or social activities and facilities designed to address the special needs of elderly persons, or to the handicapped, without regard to the beneficiaries' ability to pay;

(4) preserving a historical landmark or site;

(5) promoting or operating a museum, zoo, library, theater of the dramatic or performing arts, or symphony orchestra or choir;

(6) promoting or providing humane treatment of animals;

(7) acquiring, storing, transporting, selling, or distributing water for public use;

(8) answering fire alarms and extinguishing fires with no compensation or only nominal compensation to the members of the organization;

(9) promoting the athletic development of boys or girls under the age of 18 years;

(10) preserving or conserving wildlife;

(11) promoting educational development through loans or scholarships to students;

(12) providing halfway house services pursuant to a certification as a halfway house by the Board of Pardons and Paroles;

(13) providing permanent housing and related social, health care, and educational facilities for persons who are 62 years of age or older without regard to the residents' ability to pay;

(14) promoting or operating an art gallery, museum, or collection, in a permanent location or on tour, that is open to the public;

(15) providing for the organized solicitation and collection for distributions through gifts, grants, and agreements to nonprofit charitable, education, religious, and youth organizations that provide direct human, health, and welfare services;

(16) performing biomedical or scientific research or biomedical or scientific education for the benefit of the public;

(17) operating a television station that produces or broadcasts educational, cultural, or other public interest programming and that receives grants from the Corporation for Public Broadcasting under 47 U.S.C. Section 396 and its subsequent amendments;

(18) providing housing for low-income and moderate-income families, for unmarried individuals 62 years of age or older, for handicapped individuals, and for families displaced by urban renewal, through the use of trust assets that are irrevocably and, pursuant to a contract entered into before December 31, 1972, contractually dedicated on the sale or disposition of the housing to a charitable organization that performs charitable functions described by Subdivision (9);

(19) providing housing and related services to persons who are 62 years of age or older in a retirement community, if the retirement community provides independent living services, assisted living services, and nursing services to its residents on a single campus;

(A) without regard to the residents' ability to pay; or

(B) in which at least four percent of the retirement community's combined net resident revenue is provided in charitable care to its residents; or

(20) providing housing on a cooperative basis to students of an institution of higher education if:

(A) the organization is exempt from federal income taxation under Section 501(a) of the Internal Revenue Code of 1986, and its subsequent amendments, by being listed as an exempt entity under Section 501(c)(3) of that code;

(B) membership in the organization is open to all students enrolled in the institution and is not limited to those chosen by current members of the organization;

(C) the organization is governed by its members; and

(D) the members of the organization share the responsibility for managing the housing.

For purposes of satisfying Paragraph (F) of Subdivision (1), a hospital or hospital system may not change its existing fiscal year unless the hospital or hospital system changes its ownership or corporate structure as a result of a sale or merger.

For purposes of this subsection, a hospital that satisfies Paragraph (A), (D), (G), or (H) of Subdivision (1) shall be excluded in determining a hospital system's compliance with the standards provided by Paragraph (B), (C), (E), or (F) of Subdivision (1).

For purposes of this subsection, the terms "charity care," "government-sponsored indigent health care," "health care organization," "hospital system," "net patient revenue," "nonprofit hospital," and "tax-exempt benefits" have the meanings set forth in Sections 311.031 and 311.042, Health and Safety Code. A determination of the amount of community benefits and charity care and government-sponsored indigent health care provided by a hospital or hospital system and the hospital's or hospital system's compliance with the requirements of Section 311.045, Health and Safety Code, shall be based on the most recently completed and audited prior fiscal year of the hospital or hospital system.

The providing of charity care and government-sponsored indigent health care in accordance with Paragraph (A) of Subdivision (1) shall be guided by the prudent business judgment of the hospital which will ultimately determine the appropriate level of charity care and government-sponsored indigent health care based on the community needs, the available resources of the hospital, the tax-exempt benefits received by the hospital, and other factors that may be unique to the hospital, such as the hospital's volume of Medicare and Medicaid patients. These criteria shall not be determinative factors, but shall be guidelines contributing to the hospital's decision along with other factors which may be unique to the hospital. The formulas contained in Paragraphs (B), (C), (E), and (F) of Subdivision (1) shall also not be considered determinative of a reasonable amount of charity care and government-sponsored indigent health care.

The requirements of this subsection shall not apply to the extent a hospital or hospital system demonstrates that reductions in the amount of

community benefits, charity care, and government-sponsored indigent health care are necessary to maintain financial reserves at a level required by a bond covenant, are necessary to prevent the hospital or hospital system from endangering its ability to continue operations, or if the hospital or hospital system, as a result of a natural or other disaster, is required substantially to curtail its operations.

In any fiscal year that a hospital or hospital system, through unintended miscalculation, fails to meet any of the standards in Subdivision (1), the hospital or hospital system shall not lose its tax-exempt status without the opportunity to cure the miscalculation in the fiscal year following the fiscal year the failure is discovered by both meeting one of the standards and providing an additional amount of charity care and government-sponsored indigent health care that is equal to the shortfall from the previous fiscal year. A hospital or hospital system may apply this provision only once every five years.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 2810** on third reading by striking lines 4 through 9 of Floor Amendment No. 1 (2nd reading).

(Speaker in the chair)

HB 3578 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Villarreal called up with senate amendments for consideration at this time,

HB 3578, A bill to be entitled An Act relating to the use of certain child care development funds for quality child care programs.

Representative Villarreal moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3578**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3578**: Villarreal, chair, Coleman, Maxey, Naishtat, and Martinez Fischer.

SB 515 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Truitt, the house granted the request of the senate for the appointment of a conference committee on **SB 515**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 515**: Truitt, chair, Hinojosa, Kitchen, Smith, and Hope.

SB 309 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Bosse, the house granted the request of the senate for the appointment of a conference committee on **SB 309**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 309**: Bosse, chair, McCall, Chisum, Gallego, and Gray.

HCR 318 - ADOPTED
(by Thompson)

The following privileged resolution was laid before the house:

HCR 318

WHEREAS, **HB 2735** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

WHEREAS, The bill contains technical errors that should be corrected; now, therefore, be it

RESOLVED by the 77th Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to correct **HB 2735** as follows:

(1) On page 10, line 25, strike "57.048, and 57.049" and substitute "57.049, and 57.050".

(2) On page 11, line 6, between "licensed" and "without", insert "or certified".

(3) On page 11, lines 12-14, strike "A license issued under this section may be renewed in the same manner as other licenses" and substitute "A license or certificate issued under this section may be renewed in the same manner as other licenses or certificates".

HCR 318 was adopted without objection.

(Puente now present)

RESOLUTIONS REFERRED TO COMMITTEES

Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

(Geren in the chair)

HCR 319 - ADOPTED
(by Shields)

Representative Shields moved to suspend all necessary rules to take up and consider at this time **HCR 319**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 319, Commemorating the quasiquicentennial of the Texas Constitution.

HCR 319 was adopted without objection.

SB 896 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED

On motion of Representative Hamric, the house granted the request of the senate for the appointment of a conference committee on **SB 896**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 896**: Hamric, chair, Ramsay, Keffer, B. Turner, and Hardcastle.

(Cook now present)

COMMITTEE GRANTED PERMISSION TO MEET

Representative Hunter requested permission for the Committee on State, Federal, and International Relations to meet while the house is in session.

Permission to meet was granted without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

State, Federal, and International Relations, 5:45 p.m. today, speakers committee room, for a formal meeting, to consider **HR 646**.

HR 1242 - ADOPTED (by Goolsby)

Representative Goolsby moved to suspend all necessary rules to take up and consider at this time **HR 1242**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1242, Honoring Dr. Theodore P. Votteler of Dallas on the occasion of his retirement and for his notable achievements in the medical field.

HR 1242 was adopted without objection.

SB 11 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative McCall, the house granted the request of the senate for the appointment of a conference committee on **SB 11**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 11**: Gray, chair, Maxey, Kitchen, McCall, and Capelo.

SB 1173 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Cook, the house granted the request of the senate for the appointment of a conference committee on **SB 1173**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1173**: Hilderbran, chair, Nixon, Pitts, T. King, and Averitt.

PROVIDING FOR ADJOURNMENT

Representative Geren moved that, pending the receipt of senate messages and appointment of conference committees, the house adjourn until 10 a.m. tomorrow.

The motion prevailed without objection.

(Chavez in the chair)

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 4).

HOUSE AT EASE

At 6:09 p.m., the chair announced that the house would stand at ease.

(Kolkhorst in the chair)

The chair called the house to order at 6:48 p.m.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 5).

HOUSE AT EASE

At 6:49 p.m., the chair announced that the house would stand at ease.

(Speaker in the chair)

The speaker called the house to order at 7:12 p.m.

SB 8 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Sadler, the house granted the request of the senate for the appointment of a conference committee on **SB 8**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 8**: Farabee, chair, Smithee, Thompson, Gray, and Goodman.

SB 173 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Sadler, the house granted the request of the senate for the appointment of a conference committee on **SB 173**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 173**: Hinojosa, chair, Dunnam, Keel, Garcia, and Shields.

SB 409 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Sadler, the house granted the request of the senate for the appointment of a conference committee on **SB 409**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 409**: Bosse, chair, Alexander, Y. Davis, McCall, and Gallego.

SB 527 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Sadler, the house granted the request of the senate for the appointment of a conference committee on **SB 527**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 527**: Naishtat, chair, Chavez, Noriega, Madden, and Williams.

**SB 886 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Sadler, the house granted the request of the senate for the appointment of a conference committee on **SB 886**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 886**: Gallego, chair, Hamric, Pickett, Talton, and Swinford.

**SB 1128 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Sadler, the house granted the request of the senate for the appointment of a conference committee on **SB 1128**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1128**: Coleman, chair, Y. Davis, Edwards, Hawley, and Swinford.

**SB 1458 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Sadler, the house granted the request of the senate for the appointment of a conference committee on **SB 1458**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1458**: McCall, chair, Rangel, Hunter, Telford, and Grusendorf.

STATEMENT OF VOTE

I was shown voting yes on Record No. 535 (**SB 577**). I intended to vote no.

Noriega

ADJOURNMENT

In accordance with a previous motion, the house, at 7:15 p.m., adjourned until 10 a.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HR 1269 (By West), In memory of Richard Hiram Porter of Odessa.
To Rules & Resolutions.

HR 1272 (By Chavez), Commending The University of Texas at El Paso for its online MBA program.

To Rules & Resolutions.

HR 1273 (By Chavez), Congratulating the El Paso Destination ImagiNation teams sponsored by Eastwood High School on qualifying for the Global Finals.

To Rules & Resolutions.

HR 1274 (By Gray), Honoring the Texas City refinery of Marathon Oil Company for receiving a 2000 President's Award.

To Rules & Resolutions.

HR 1275 (By Uher), Congratulating Jack and Lynda Chew of San Antonio on their 25th wedding anniversary.

To Rules & Resolutions.

HR 1278 (By Gallego), In memory of Marie Elizabeth "Dadie" Stillwell Potter of Marathon.

To Rules & Resolutions.

HR 1279 (By Gallego), Honoring Angela Veronica Colmenero of Austin on her academic accomplishments.

To Rules & Resolutions.

HR 1286 (By Bailey), Honoring Jack Drake for his civic leadership in Greenspoint.

To Rules & Resolutions.

HR 1287 (By Bailey), Honoring Vic and Donna Mauldin on the occasion of the 25th anniversary of The Northeast News.

To Rules & Resolutions.

HR 1288 (By Bailey), Honoring M. B. "Sonny" Donaldson on his retirement as superintendent of Aldine ISD.

To Rules & Resolutions.

HR 1290 (By J. Davis, Gray, Talton, and Eiland), Honoring George Abbey for his contributions to NASA—Johnson Space Center.

To Rules & Resolutions.

HR 1291 (By Merritt), In memory of Johnny S. Cace of Longview.

To Rules & Resolutions.

HR 1292 (By Merritt), Congratulating Kristy Kerr of Kilgore on her receipt of an Area Go Texan scholarship.

To Rules & Resolutions.

HR 1293 (By Merritt), Honoring Pine Tree High School senior Cristi Saunders for signing a college letter-of-intent to play soccer at Ouachita Baptist University.

To Rules & Resolutions.

HR 1294 (By Merritt), Honoring the 2001 senior class of White Oak High School for their achievements.

To Rules & Resolutions.

HR 1295 (By Merritt), Honoring Johnny Cace's Seafood & Steak House in Longview.

To Rules & Resolutions.

HR 1296 (By Merritt), Honoring the 1999 Longview High School academic team students on the formal publication of their research by NASA.

To Rules & Resolutions.

HR 1297 (By Flores), Congratulating the La Joya High School softball and baseball teams on their outstanding 2000-2001 season.

To Rules & Resolutions.

HR 1300 (By Oliveira, et al.), Honoring The University of Texas at Brownsville as it marks 10 years as a member of The University of Texas System and its partner school, Texas Southmost College, as it celebrates its 75th anniversary.

To Rules & Resolutions.

HR 1302 (By Wise), Honoring Lindsey Buller for her contributions as a legislative intern in the office of State Representative Miguel D. Wise.

To Rules & Resolutions.

HR 1303 (By Wise), Commending Katie Ann Nettles on her service as a legislative intern in the office of Representative Miguel D. Wise.

To Rules & Resolutions.

HR 1304 (By Wise), Honoring Rachel K. Johnston for her valuable service as legislative director in the office of State Representative Miguel D. Wise.

To Rules & Resolutions.

HR 1305 (By Wise), Honoring Herbert Arthur Dean of Weslaco for his lifetime of achievement.

To Rules & Resolutions.

HR 1306 (By Christian), In memory of Ralph Murray Shaw, Jr., of Austin.

To Rules & Resolutions.

HR 1307 (By Ellis), Honoring Colonel M. B. Etheredge for his distinguished service to this state and nation.

To Rules & Resolutions.

HR 1309 (By Allen), Honoring Colleen Marie Crisp and Robert Joshua Benefield on the occasion of their wedding.

To Rules & Resolutions.

SCR 72 to Rules & Resolutions.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 68

HB 66, HB 71, HB 116, HB 131, HB 141, HB 171, HB 176, HB 196, HB 299, HB 398, HB 541, HB 557, HB 609, HB 726, HB 1075, HB 1107, HB 1117, HB 1448, HB 1450, HB 1490, HB 1706, HB 1721, HB 2008, HB 2058, HB 2119, HB 2173, HB 2179, HB 2316, HB 2410, HB 2477, HB 2614, HB 2643, HB 2723, HB 2793, HB 2972, HB 3355, HB 3590, HB 3604, HCR 99, HCR 120, HCR 128, HCR 217, HCR 257, HCR 273, HCR 290, HCR 297, HCR 304

House List No. 69

HB 223, HB 310, HB 400, HB 460, HB 598, HB 623, HB 631, HB 835, HB 877, HB 1001, HB 1004, HB 1024, HB 1121, HB 1127, HB 1138

Senate List No. 36

SB 82, SB 108, SB 158, SB 177, SB 218, SB 272, SB 314, SB 326, SB 350, SB 352, SB 355, SB 367, SB 377, SB 430, SB 437, SB 518, SB 643, SB 684, SB 697, SB 766, SB 779, SB 846, SB 961, SB 986, SB 1205, SB 1371, SJR 16, SJR 37

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Friday, May 25, 2001

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 2686 Solis, Jim SPONSOR: Lucio
Relating to tax incentives for certain businesses located in enterprise zones, defense readjustment zones, or strategic investment areas.
(AMENDED)

THE SENATE HAS REFUSED TO CONCUR IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 1783

Senate Conferees: Sibley - Chair/Fraser/Jackson/Lucio/Van de Putte

Respectfully,

Betty King
Secretary of the Senate

Message No. 2**MESSAGE FROM THE SENATE
SENATE CHAMBER**

Austin, Texas

Friday, May 25, 2001 - 2

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HCR 312 Homer **SPONSOR: Cain**
Honoring H. L. Milton on his retirement as superintendent of the Honey Grove Independent School District.

HCR 313 Homer **SPONSOR: Cain**
Honoring James Larry Tucker on his retirement as superintendent of the Leonard ISD.

SCR 70 Jackson
Requesting the return of Senate Bill 1672 from the Governor.

**THE SENATE HAS CONCURRED IN HOUSE AMENDMENTS TO THE
FOLLOWING MEASURES:**

SB 1125 (viva-voce vote)

**THE SENATE HAS REFUSED TO CONCUR IN HOUSE AMENDMENTS TO
THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF
A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES
BETWEEN THE TWO HOUSES:**

SB 248
Senate Conferees: Carona - Chair/Ellis, Rodney/Fraser/Lindsay/Ogden

SB 309
Senate Conferees: Harris - Chair/Armbrister/Lucio/Sibley/Staples

SB 311
Senate Conferees: Zaffirini - Chair/Armbrister/Barrientos/Fraser/Shapleigh

SB 515
Senate Conferees: Madla - Chair/Carona/Lucio/Sibley/Van de Putte

SB 1173
Senate Conferees: Wentworth - Chair/Brown, J. E. "Buster"/Ogden/Truan/
Whitmire

**THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE
APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING
MEASURES:**

HB 154

Senate Conferees: Gallegos - Chair/Bernsen/Carona/Moncrief/Zaffirini

HB 1739

Senate Conferees: Van de Putte - Chair/Armbrister/Moncrief/Ogden/Staples

HB 2164

Senate Conferees: Cain - Chair/Gallegos/Harris/Moncrief/Zaffirini

HB 2809

Senate Conferees: Cain - Chair/Armbrister/Brown, J. E. "Buster"/Harris/Shapiro

THE SENATE HAS TAKEN THE FOLLOWING OTHER ACTION:

SB 1057

Senate Reconsidered Vote and Refused to Concur on the Amendments on **SB 1057**. The following conferees were appointed: Ellis/Chair, Bivins, Cain, Shapiro, Zaffirini

Respectfully,

Betty King

Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Friday, May 25, 2001 - 3

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SCR 71 Cain

Honoring the members of the State Preservation Board housekeeping staff for their dedication and hard work.

SCR 72 Staples

In memory of Allen Grobe of Palestine, a former speaker of the Texas Silver-Haired Legislature.

THE SENATE HAS CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 51 (viva-voce vote)

SB 63 (viva-voce vote)

SB 192 (viva-voce vote)

SB 215 (viva-voce vote)

SB 538 (viva-voce vote)

SB 588 (30 Yeas, 0 Nays, 1 Present Not Voting)

SB 609 (viva-voce vote)

SB 776	(viva-voce vote)
SB 907	(30 Yeas, 0 Nays, 1 Present Not Voting)
SB 1165	(viva-voce vote)
SB 1308	(viva-voce vote)
SB 1475	(viva-voce vote)
SB 1637	(viva-voce vote)
SB 1684	(viva-voce vote)
SB 1686	(30 Yeas, 0 Nays, 1 Present Not Voting)
SB 1689	(viva-voce vote)
SB 1747	(viva-voce vote)
SB 1763	(30 Yeas, 0 Nays, 1 Present Not Voting)
SJR 6	(30 Yeas, 0 Nays, 1 Present Not Voting)

THE SENATE HAS REFUSED TO CONCUR IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 11

Senate Conferees: Nelson - Chair/Carona/Harris/Sibley/Zaffirini

SB 317

Senate Conferees: Sibley - Chair/Bivins/Carona/Madla/Shapleigh

SB 896

Senate Conferees: Shapiro - Chair/Brown, J. E. "Buster"/Cain/Madla/Staples

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 152

Senate Conferees: Ogden - Chair/Bivins/Truan/Wentworth/West, Royce

HB 900

Senate Conferees: Wentworth - Chair/Brown, J. E. "Buster"/Jackson/Lindsay/West, Royce

HB 1203

Senate Conferees: Fraser - Chair/Armbrister/Brown, J. E. "Buster"/Madla/Shapiro

HB 1317

Senate Conferees: Haywood - Chair/Armbrister/Brown, J. E. "Buster"/Lucio/Ogden

HB 1831

Senate Conferees: Harris - Chair/Armbrister/Lindsay/Lucio/Shapiro

HB 1862

Senate Conferees: Van de Putte - Chair/Carona/Fraser/Harris/Lucio

HB 2005

Senate Conferees: Wentworth - Chair/Barrientos/Brown, J. E. "Buster"/Lucio/Nelson"Buster"

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 1641 (29 Yeas, 1 Nay and 1 Present Not Voting)

SB 113 (viva-voce vote)

SB 303 (viva-voce vote)

Respectfully,

Betty King
Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Friday, May 25, 2001 - 4

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 217 (viva-voce vote)

SB 224 (viva-voce vote)

SB 638 (viva-voce vote)

SB 1212 (30 Yeas, 0 Nays, 1 Present Not Voting)

SB 1315 (30 Ayes, 0 Nays, 1 Present Not Voting)

SB 1434 (30 Yeas, 0 Nays, 1 Present Not Voting)

SB 1496 (viva-voce vote)

SB 1764 (viva-voce vote)

SB 1821 (30 Yeas, 0 Nays, 1 Present Not Voting)

SJR 49 (30 Yeas, 0 Nays, 1 Present Not Voting)

THE SENATE HAS REFUSED TO CONCUR IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 8

Senate Conferees: Cain - Chair/Nelson/Sibley/Van de Putte/Zaffirini

SB 173

Senate Conferees: Carona - Chair/Duncan/Moncrief/Ogden/Sibley

SB 409

Senate Conferees: Cain - Chair/Armbrister/Carona/Madla/Shapiro

SB 527

Senate Conferees: Moncrief - Chair/Bernsen/Carona/Ogden/Shapleigh

SB 886

Senate Conferees: Ogden - Chair/Fraser/Harris/Lucio/Shapiro

SB 1128

Senate Conferees: Bernsen - Chair/Cain/Shapiro/West, Royce/Whitmire

SB 1458

Senate Conferees: Duncan - Chair/Armbrister/Ellis, Rodney/Harris/Ogden

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 393

Senate Conferees: Ellis, Rodney - Chair/Carona/Moncrief/West, Royce/Zaffirini

HB 1323

Senate Conferees: Staples - Chair/Armbrister/Fraser/Shapiro/Van de Putte

HB 1784

Senate Conferees: Ogden - Chair/Armbrister/Bernsen/Duncan/Sibley

HB 1925

Senate Conferees: Staples - Chair/Armbrister/Bernsen/Bivins/Jackson

HB 2530

Senate Conferees: Ellis, Rodney - Chair/Bivins/Fraser/Lucio/Sibley

HB 2684

Senate Conferees: Armbrister - Chair/Bernsen/Cain/Lucio/Truan

HB 2879

Senate Conferees: Bivins - Chair/Ellis, Rodney/Staples/Van de Putte/Zaffirini

HB 3572

Senate Conferees: Lindsay - Chair/Fraser/Moncrief/Nelson/Zaffirini

THE SENATE HAS DISCHARGED ITS CONFEREES AND CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 450 (viva-voce vote)

THE SENATE HAS RECOMMITTED THE FOLLOWING MEASURES TO CONFERENCE COMMITTEE:

HB 695

Respectfully,

Betty King
Secretary of the Senate

Message No. 5**MESSAGE FROM THE SENATE
SENATE CHAMBER**

Austin, Texas

Friday, May 25, 2001 - 5

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE
APPOINTMENT OF A CONFERENCE COMMITTEE ON THE
FOLLOWING MEASURES:

HB 259

Senate Conferees: Armbrister - Chair/Bernsen/Cain/Sibley/Van de Putte

HB 1839

Senate Conferees: Ellis, Rodney - Chair/Armbrister/Duncan/Ogden/Shapiro

HB 2204

Senate Conferees: Moncrief - Chair/Carona/Shapiro/Shapleigh/Truan

HB 2572

Senate Conferees: Staples - Chair/Bernsen/Bivins/Haywood/Lucio

HB 2585

Senate Conferees: Shapleigh - Chair/Armbrister/Bernsen/Carona/Madla

HB 3305

Senate Conferees: Van de Putte - Chair/Gallegos/Lindsay/Madla/Shapiro

Respectfully,

Betty King

Secretary of the Senate

APPENDIX

ENGROSSED**May 24 - HCR 206, HCR 211, HCR 221****ENROLLED**

**May 24 - HB 5, HB 7, HB 35, HB 131, HB 141, HB 171, HB 370,
HB 374, HB 398, HB 541, HB 557, HB 563, HB 609, HB 689, HB 726,
HB 803, HB 910, HB 1071, HB 1075, HB 1209, HB 1377, HB 1448,
HB 1450, HB 1490, HB 1495, HB 1537, HB 1575, HB 1621, HB 1639,
HB 1676, HB 1706, HB 1721, HB 1723, HB 1748, HB 1813, HB 1820,**

HB 1948, HB 2008, HB 2028, HB 2046, HB 2058, HB 2065, HB 2097, HB 2119, HB 2134, HB 2144, HB 2156, HB 2173, HB 2179, HB 2249, HB 2270, HB 2273, HB 2316, HB 2388, HB 2410, HB 2477, HB 2574, HB 2588, HB 2614, HB 2643, HB 2673, HB 2681, HB 2687, HB 2718, HB 2719, HB 2723, HB 2728, HB 2751, HB 2786, HB 2793, HB 2798, HB 2881, HB 2888, HB 2972, HB 2987, HB 2989, HB 2994, HB 2997, HB 3040, HB 3071, HB 3162, HB 3355, HB 3543, HB 3589, HB 3590, HB 3604, HB 3613, HB 3634, HB 3687, HB 3691, HB 3694, HB 3698, HCR 99, HCR 120, HCR 128, HCR 144, HCR 209, HCR 217, HCR 257, HCR 260, HCR 269, HCR 273, HCR 282, HCR 290, HCR 297, HCR 300, HCR 301, HCR 302, HCR 303, HCR 304, HCR 305, HJR 44

SENT TO THE GOVERNOR

May 24 - HB 5, HB 7, HB 15, HB 31, HB 35, HB 78, HB 83, HB 99, HB 119, HB 149, HB 164, HB 170, HB 182, HB 195, HB 218, HB 249, HB 280, HB 298, HB 370, HB 374, HB 407, HB 412, HB 434, HB 451, HB 456, HB 468, HB 485, HB 489, HB 497, HB 539, HB 563, HB 567, HB 596, HB 612, HB 627, HB 628, HB 674, HB 689, HB 691, HB 694, HB 715, HB 779, HB 803, HB 842, HB 892, HB 910, HB 931, HB 949, HB 964, HB 1056, HB 1071, HB 1072, HB 1080, HB 1109, HB 1124, HB 1128, HB 1137, HB 1181, HB 1194, HB 1209, HB 1268, HB 1276, HB 1309, HB 1316, HB 1348, HB 1363, HB 1377, HB 1387, HB 1393, HB 1394, HB 1426, HB 1428, HB 1430, HB 1440, HB 1447, HB 1468, HB 1495, HB 1537, HB 1575, HB 1592, HB 1599, HB 1610, HB 1612, HB 1614, HB 1621, HB 1639, HB 1676, HB 1723, HB 1748, HB 1813, HB 1820, HB 1823, HB 1880, HB 1948, HB 2028, HB 2046, HB 2065, HB 2097, HB 2134, HB 2144, HB 2156, HB 2167, HB 2168, HB 2247, HB 2249, HB 2265, HB 2270, HB 2273, HB 2279, HB 2327, HB 2331, HB 2334, HB 2347, HB 2382, HB 2388, HB 2391, HB 2400, HB 2405, HB 2408, HB 2413, HB 2415, HB 2419, HB 2423, HB 2475, HB 2482, HB 2488, HB 2492, HB 2529, HB 2558, HB 2559, HB 2574, HB 2579, HB 2587, HB 2588, HB 2593, HB 2638, HB 2650, HB 2658, HB 2673, HB 2681, HB 2682, HB 2687, HB 2706, HB 2718, HB 2719, HB 2728, HB 2731, HB 2751, HB 2756, HB 2758, HB 2760, HB 2761, HB 2763, HB 2767, HB 2769, HB 2780, HB 2782, HB 2784, HB 2786, HB 2788, HB 2798, HB 2803, HB 2806, HB 2808, HB 2811, HB 2812, HB 2813, HB 2831, HB 2833, HB 2863, HB 2881, HB 2888, HB 2957, HB 2976, HB 2987, HB 2989, HB 2994, HB 2997, HB 3001, HB 3040, HB 3071, HB 3121, HB 3123, HB 3144, HB 3153, HB 3161, HB 3162, HB 3174, HB 3178, HB 3184, HB 3185, HB 3203, HB 3229, HB 3254, HB 3285, HB 3296, HB 3298, HB 3333, HB 3349, HB 3351, HB 3359, HB 3364, HB 3378, HB 3387, HB 3393, HB 3463, HB 3465, HB 3491, HB 3498, HB 3504, HB 3526, HB 3543, HB 3552, HB 3589, HB 3603, HB 3613, HB 3627, HB 3628, HB 3629, HB 3630, HB 3632, HB 3633, HB 3634, HB 3635, HB 3643, HB 3646, HB 3653, HB 3663, HB 3664, HB 3670, HB 3671, HB 3676, HB 3677, HB 3687, HB 3691, HB 3693, HB 3694, HB 3695, HB 3698, HCR 41, HCR 102, HCR 109, HCR 118, HCR 144, HCR 174, HCR 177, HCR 200, HCR 209, HCR 214, HCR 223, HCR 226,

**HCR 227, HCR 236, HCR 245, HCR 248, HCR 250, HCR 254, HCR 255,
HCR 256, HCR 260, HCR 267, HCR 269, HCR 282, HCR 296, HCR 300,
HCR 301, HCR 302, HCR 303, HCR 305**

SENT TO THE SECRETARY OF THE STATE

May 24 - HJR 44

SIGNED BY THE GOVERNOR

**May 24 - HB 234, HB 251, HB 1465, HB 1504, HB 1532, HB 1588,
HB 1600, HB 1640, HB 1663, HB 1671, HB 1876, HB 1888, HB 1901,
HB 2299, HB 2401, HB 2584, HB 2621, HB 3567**